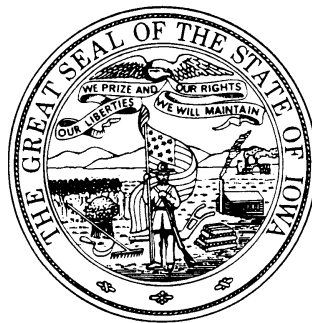


IOWA COURT RULES

FIFTH EDITION

June 2023 Supplement



Published under the authority of Iowa Code section 2B.5B.

PREFACE

The Fifth Edition of the Iowa Court Rules was published in July 2009 pursuant to Iowa Code section 2B.5(2). Subsequent updates to the Iowa Court Rules, as ordered by the Supreme Court, are published in electronic format only and include chapters that have been amended or adopted.

The Iowa Court Rules and related documents are available at www.legis.iowa.gov/law/courtRules.

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Inquiries. Inquiries regarding access to the Iowa Court Rules should be directed to the Legislative Services Agency's Computer Services Division Help Desk at 515.281.6506.

Citation.	The rules shall be cited as follows:
Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 16	Iowa R. Elec. P.
Chapter 32	Iowa R. of Prof'l Conduct
Chapter 51	Iowa Code of Judicial Conduct
	All other rules shall be cited as "Iowa Ct. R."

Supplements. Supplements to the Fifth Edition of the Iowa Court Rules have been issued as follows:

2009 — [August](#), [September](#), [October](#), [November](#), [December](#)
2010 — [January](#), [February](#), [March](#), [May](#), [June](#), [August](#), [September](#), [December](#)
2011 — [February](#)
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2020 — [February](#), [April](#), [June](#), [September](#), [October](#), [December](#)
2021 — [April](#), [May](#), [June](#), [July](#), [August](#), [September](#), [October](#), [December](#)
2022 — [January](#), [February](#), [March](#), [June](#), [September](#), [October](#), [November](#), [December](#)
2023 — [March](#)

June 2023 Supplement

Changes in this supplement

Rules 2.1 to 2.24 Amended
Rule 2.25 Rescinded
Rules 2.26 to 2.29 Amended
Rule 2.30 Rescinded
Rule 2.31 Amended
Rule 2.33 Amended
Rules 2.34 and 2.35 Rescinded

Rule 2.37, Form 6 Amended
Rule 2.37, Forms 8 to 12 Adopted
Rules 2.51 to 2.74 Amended
Rule 2.75 Rescinded
Rule 2.86, Forms 1 to 5 Amended
Rule 22.14 Amended
Chapter 70 Adopted

INSTRUCTIONS FOR UPDATING THE IOWA COURT RULES

Replace Chapter 2

Replace Chapter 22

Add Reserved Chapters 64 to 69 and Chapter 70

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CHAPTER 2

RULES OF CRIMINAL PROCEDURE

INDICTABLE OFFENSES

Rule 2.1 Scope of rules. The rules in this section provide procedures applicable to indictable offenses. Unless the context indicates otherwise, rights or obligations of a defendant's attorney also apply to an unrepresented defendant.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §2, 3; amendment 1981; 1984 Iowa Acts, ch 1323, §4; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.2 Proceedings before the magistrate.

2.2(1) Definition of "magistrate". For purposes of this section, "magistrate" includes judicial magistrates, district associate judges, and district judges.

2.2(2) Initial appearance of the defendant. An officer making an arrest with or without a warrant shall take the arrested person before a magistrate either personally or by interactive audiovisual system as provided by rule 2.27(1)(a) within 24 hours unless no magistrate is available and in all events within 48 hours.

a. When a person arrested without a warrant is brought before a magistrate, a complaint shall be filed forthwith.

b. If the defendant received a citation or was arrested without a warrant, the magistrate shall, prior to further proceedings in the case, make an initial, preliminary determination from the complaint or affidavits filed with the complaint whether there is probable cause to believe that an offense has been committed and that the defendant has committed it. The magistrate's decision in this regard shall be entered in the record.

c. Unless otherwise ordered by the court, a pro se defendant may waive the initial appearance by executing and filing rule 2.37—Form 8: *Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense*. An attorney for the defendant may waive the initial appearance on the defendant's behalf by executing and filing a written waiver that substantially complies with rule 2.37—Form 9: *Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense*. The date of the initial appearance is deemed the date the waiver is filed.

2.2(3) Events to occur at the initial appearance. The defendant shall not be called upon to plead at the initial appearance. The following events shall occur:

a. The magistrate shall inform the defendant of the complaint and ensure the defendant receives a copy.

b. The magistrate shall inform the defendant of the following:

(1) The defendant's right to retain counsel.

(2) The defendant's right to request the appointment of counsel if the defendant is unable to obtain counsel by reason of indigency.

(3) The circumstances under which the defendant may secure pretrial release.

(4) The defendant's right to obtain review of any conditions imposed on the defendant's release.

(5) That the defendant is not required to make a statement and that any statement made by the defendant may be used against the defendant.

(6) The defendant's right to a preliminary hearing unless an indictment or trial information is filed beforehand.

c. If the defendant is found to be indigent pursuant to Iowa Code section 815.9, the magistrate shall appoint counsel to represent the defendant.

d. The magistrate shall order the defendant held to answer in further proceedings.

e. If the defendant does not waive the preliminary hearing, the magistrate shall schedule a preliminary hearing and inform the defendant of the date of the preliminary hearing. Such hearing shall be held within a reasonable time but in any event no later than 10 days following the initial appearance if the defendant is in custody and no later than 20 days if the defendant is not in custody. Upon a showing of good cause, the time limits specified in this paragraph may be extended by the magistrate. The preliminary hearing will not occur if, prior to its commencement, an indictment or trial information is filed.

2.2(4) Preliminary hearing.

a. *Waiver of preliminary hearing.* Unless otherwise ordered by the court, a pro se defendant may waive the preliminary hearing by executing and filing rule 2.37—Form 8: *Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense*. An attorney for the defendant may waive the preliminary hearing on the defendant's behalf by executing and filing a written waiver that substantially complies with rule 2.37—Form 9: *Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense*.

b. *Method of proceeding.* The prosecution shall present evidence at the preliminary hearing. The defendant may cross-examine witnesses and may introduce evidence on the defendant's behalf.

c. *Probable cause finding.* If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the defendant committed it, the magistrate shall order the defendant held to answer in further proceedings. The finding of probable cause shall be based upon substantial evidence, which may be hearsay in whole or in part provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished.

d. *Constitutional objections.* Rules excluding evidence on the ground that it was acquired by unlawful means and motions to suppress are not applicable to the preliminary hearing.

e. *Discharge of the defendant.* If from the evidence it appears that there is no probable cause to believe that an offense has been committed or that the defendant committed it, the magistrate shall dismiss the complaint and discharge the defendant. Unless the dismissed charge was a serious misdemeanor, the discharge of the defendant shall not preclude the government from instituting a subsequent prosecution for the same charge.

f. *Preliminary hearing testimony preserved by stenographer or electronic recording equipment; production prior to trial.* Proceedings at the preliminary hearing shall be reported by a court reporter or recorded by electronic recording equipment and the recording or transcript shall be made available to the defendant, the defendant's attorney, or the government on request. Prepayment for transcripts shall be required except for an indigent defendant.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §4 to 7; 69GA, ch 117, §1241; 1983 Iowa Acts, ch 186, §10143 and 10144; Report January 31, 1989, effective May 1, 1989; April 20, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.3 The grand jury.

2.3(1) Drawing grand jurors. At such times as prescribed by the chief judge of the district court, the grand jurors shall be drawn using the methods authorized by rule 2.18(2) for random selection of prospective petit jurors. A grand jury shall have seven jurors. If any jurors so drawn are excused by the court or fail to attend on the day designated for their appearance, the clerk shall draw additional names until seven grand jurors are secured.

2.3(2) Convening the grand jury. The grand jury shall meet at times specified by order of a district judge, at the request of the prosecuting attorney, or upon the request of a majority of the grand jurors.

2.3(3) Challenge to the grand jury.

a. *Challenge to the grand jury.* The grand jury may be challenged upon any ground set forth in rule 2.18(4). If the challenge is sustained, the court shall take remedial action to select a proper grand jury.

b. *Challenge to individual jurors.* A challenge to an individual grand juror may be made upon any ground in rule 2.18(5) except for rule 2.18(5)(g).

c. *Timing of challenges.* Challenges to the grand jury or to an individual grand juror must be made and decided, if possible, before the grand jury is sworn.

d. *Motion to dismiss.* Where the grounds for the challenge could not have been raised earlier, a defendant may raise a challenge to the grand jury or to an individual grand juror by filing a motion to dismiss the indictment.

2.3(4) Excusing and discharging grand jurors.

a. *Excusing jurors.* If the court excuses a juror, the court may impanel another person in place of the juror excused. If the grand jury has been reduced to fewer than seven, the additional jurors required to fill the panel shall be summoned first from the grand jurors originally summoned who were not previously impaneled. If those jurors have been exhausted, the additional number required shall be drawn from the grand jury list.

b. *Discharging jurors.* The grand jury shall be discharged by order of the court at the request of the prosecuting attorney. The regular term of a grand jury should not normally exceed one calendar

year. However, when an investigation undertaken by the grand jury is incomplete, the court may extend the grand jury's service to the completion of the investigation.

2.3(5) Duties of grand jury. The grand jury shall inquire into all indictable offenses brought before it which may be tried within the county, and present them to the court by indictment. The grand jury has the special duty to inquire into:

a. The case of any person imprisoned in the detention facilities of the county on a criminal charge and not indicted.

b. The condition and management of the public prisons, county institutions, and places of detention within the county.

c. The unlawful misconduct in office of public officers and employees in the county.

2.3(6) Oaths and procedure.

a. *Foreperson.* The court shall appoint a foreperson and, if desired, an assistant foreperson from among the grand jurors. When the foreperson or assistant foreperson already appointed becomes unable to complete their service before the grand jury is finally discharged, a substitute foreperson or assistant foreperson shall be appointed. The foreperson or assistant foreperson of the grand jury shall administer the oath to all witnesses produced and examined before it.

b. *Clerks and court reporters.* The court may appoint a competent person who is not a member of the grand jury as its clerk. In addition, the court may appoint assistant clerks to the grand jury who are also not members. If the court makes no such appointments, the grand jury shall appoint as its clerk a member who is not its foreperson. The court may appoint a court reporter to record the grand jury proceedings. The court reporter may serve as the clerk of the grand jury.

c. *Oaths administered.*

(1) The following oath shall be administered to the grand jury: "Do each of you solemnly swear or affirm that you will, to the best of your ability, diligently inquire and make a true presentment or indictment of all public offenses against the people of this state committed or triable within this county; that you will maintain the secrecy of the proceedings now before you; that you will indict no person through malice, hatred, bias, or ill will, nor fail to indict because of fear, favor, affection, or hope of reward; but, rather, that you will base your decision solely upon the evidence before you and in accordance with the laws of this state?"

(2) The following oath shall be administered to any clerk, assistant clerk, court reporter, or court attendant appointed by the court: "Do you solemnly swear or affirm that you will faithfully and impartially perform the duties of your office, that you will not reveal to anyone the grand jury's proceedings or the testimony given before it and you will not express any opinion concerning any question before the grand jury, to the grand jury, or in the presence of the grand jury or any member thereof?"

(3) The foreperson or assistant foreperson shall administer the following oath to all witnesses called to testify: "Do you solemnly swear or affirm, under penalty of perjury, that you will tell the truth, the whole truth, and nothing but the truth and that you will keep secret all that you say, hear, and see while in this grand jury room?"

d. *Secrecy of proceedings.*

(1) Except where specific provisions require otherwise, grand jury proceedings remain confidential. Every grand juror and any clerk, assistant clerk, court reporter, or court attendant shall keep secret the proceedings of the grand jury and any testimony given before it. If an indictment is found, no person shall disclose that fact except when necessary for the issuance and execution of a warrant or summons. The duty of nondisclosure shall continue until the indicted person has been arrested.

(2) The prosecuting attorney may appear before the grand jury to give information or examine witnesses, and the grand jury may at all reasonable times ask the advice of the prosecuting attorney or the court.

(3) When the grand jury is deliberating on whether to find an indictment, only members of the grand jury shall be present. The prosecuting attorney, court personnel, and any other persons are barred from the grand jury's deliberations.

(4) No grand juror shall be questioned for anything the grand juror said or any vote the grand juror cast in the grand jury relating to a matter legally pending before it, except in a case of perjury against the grand juror.

(5) The court or any legislative committee duly authorized to inquire into the conduct or acts of any state officer that might be the basis for impeachment proceedings may require the disclosure of a witness's grand jury testimony when necessary in the administration of justice.

e. Securing witnesses and records.

(1) The clerk of court shall issue subpoenas, including subpoenas duces tecum, for witnesses to appear before the grand jury, as requested by the foreperson of the grand jury or the prosecuting attorney.

(2) The grand jury is entitled to free access, at all reasonable times, to county institutions and places of confinement and to the examination, without charge, of all public records within the county.

f. Reporting. All grand jury proceedings shall be stenographically reported or electronically recorded, except for the deliberations and votes of individual members on whether to find an indictment.

g. Evidence for subject of investigation. The grand jury is not bound to receive evidence from a person who is the subject of investigation, but may do so, and must weigh all the evidence before it. When at least three grand jurors have reason to believe other evidence is available that they wish to have submitted, they may order its submission. If submitted, such evidence shall be considered by the grand jury in deciding whether an indictment should be found.

h. Refusal of witness to testify. When a witness under examination refuses to testify or answer a question, the grand jury shall proceed with the witness before a district judge, and the foreperson shall repeat the question and the refusal of the witness. If the court finds that the witness is bound to testify or answer the question, the court shall inquire whether the witness persists in refusing and, if the witness does, the court shall proceed with the witness as in cases of similar refusal in open court.

i. Finding an indictment. An indictment should be found when all the evidence, taken together, is such that, if unexplained, would warrant a conviction by the trial jury; otherwise, an indictment shall not be found. An indictment must be based only upon testimony given by witnesses sworn and examined before the grand jury, and other evidence received by the grand jury. A grand jury may consider testimony previously heard by the same or another grand jury. In any case, a grand jury may take additional testimony.

j. Vote necessary. An indictment cannot be found without the concurrence of five grand jurors. Every indictment must be endorsed a true bill and the endorsement signed by the foreperson.

k. Effect of refusal to indict. If the grand jury refuses to return an indictment, all materials shall be returned to the clerk, with the foreperson's signed endorsement that the charge has been declined. If the subject of investigation was in custody, the district judge shall enter an order which requires the subject to be released and, if applicable, bond to be exonerated. Upon request of the prosecuting attorney, and for good cause shown, the court may direct that the charge be resubmitted to the same or a subsequent grand jury.

l. Appearance not required. A child under the age of 10 years shall not be required to personally appear before a grand jury to testify against a relative or another person with whom the child resides or has resided during any period of the grand jury's investigation unless the court enters an order finding that the interests of justice require the child's appearance and that the child will not be disproportionately traumatized by the appearance.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §8 to 11, ch 1037, §11; amendment 1980; amendment 1983; 1985 Iowa Acts, ch 174, §12; Report November 9, 2001, effective February 15, 2002; February 22, 2002, effective May 1, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.4 Indictment.

2.4(1) Defined. An indictment is an accusation in writing, found and presented by a grand jury legally impaneled and sworn to the court in which it is impaneled, charging that the person named therein has committed a public offense.

2.4(2) Use of indictment. Offenses other than simple misdemeanors may be prosecuted to final judgment either on indictment or on information as provided in rule 2.5.

2.4(3) Presentation and filing. An indictment, when found by the grand jury and properly endorsed, shall be presented to the court. The presentation shall be made by the foreperson of the grand jury in the presence of the other members of the grand jury. The prosecuting attorney shall prepare and present minutes of testimony as provided in rule 2.4(7) by the time of arraignment. The indictment, minutes of testimony, and all exhibits relating thereto shall be filed by the court.

2.4(4) Contents of indictment. An indictment shall substantially comply with rule 2.37—Form 5: *General Indictment Form* and, in any event, contain a plain, concise, and definite statement of the

offense charged and be signed by the foreperson of the grand jury. The indictment shall include the following:

a. The name of the accused, if known, and if not known, designation of the accused by any name by which the accused may be identified.

b. The name of the offense and the statutory provision or provisions alleged to have been violated.

c. A brief statement of the time and place of the offense, if known.

d. Where the means by which the offense is committed are necessary to charge the offense, a brief statement of the acts or omissions by which the offense is alleged to have been committed.

2.4(5) *Nonprejudicial defects in indictments.* A trial judgment or other proceeding shall not be affected by any defect in the indictment that does not prejudice a substantial right of the defendant.

2.4(6) *Amendment of indictment.*

a. *Generally.* The court may, either before or during the trial, order the indictment amended.

b. *Opportunity to resist proposed amendment.* The defendant shall be given a reasonable opportunity to resist any proposed amendment.

c. *When amendment is not allowed.* Amendment is not allowed if substantial rights of the defendant are prejudiced by the amendment, or if a wholly new and different offense is charged.

d. *Continuance.* When an amendment is allowed, no continuance or delay in trial shall be granted on that ground unless the defendant should have additional time to prepare.

2.4(7) *Minutes.*

a. *Contents.* A minute of testimony shall consist of a notice in writing stating the name and occupation of the witness upon whose testimony the indictment is found, a full and fair statement of the witness's testimony before the grand jury if such witness testified, and a full and fair statement of the witness's expected testimony at trial. Disclosure of witness addresses shall be governed by rule 2.11(13).

b. *Amending minutes.* The prosecuting attorney may file amended minutes subject to rule 2.19(2).

c. *Minutes not to be disseminated.* Minutes of testimony shall be available to the district judge, the prosecuting attorney, the defendant, and the defendant's attorney to be used confidentially in the case and shall not be made public or further disseminated.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §12, 13; amendment 1979; amendment 1980; amendment 1999; Report November 9, 2001, effective February 15, 2002; December 23, 2008, effective February 23, 2009; April 2, 2009, effective June 1, 2009; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.5 Information.

2.5(1) *In general.*

a. *Prosecution on information.* All indictable offenses may be prosecuted by a trial information and supporting minutes of testimony. An information charging a person with an indictable offense may be filed at any time, whether or not the grand jury is in session.

b. *Submitting the information to the court.* Any prosecuting attorney has the authority to submit an information to the court for filing unless that authority is specifically reserved to the attorney general.

2.5(2) *Endorsement.* An information shall be endorsed "a true information" and shall be signed by the prosecuting attorney.

2.5(3) *Witness names and minutes.* The prosecuting attorney shall submit the minutes of testimony with the information. The minutes shall state the name and occupation of each witness upon whose expected testimony the information is based and a full and fair statement of the testimony. Disclosure of witness addresses shall be governed by rule 2.11(13).

2.5(4) *Approval by judge.*

a. A district judge, or a district associate judge having jurisdiction of the offense, shall determine if the minutes supporting the information, if unexplained, would warrant a conviction by the trial jury. If so, the judge shall promptly approve and file the information.

b. If not approved, the charge may be presented to the grand jury for consideration.

c. At any time after judicial approval of an information, and prior to the commencement of trial, the court, on its own motion, may order the information set aside and the charge submitted to the grand jury.

d. If a judge attempts to file an information but the document is returned by the Iowa Judicial Branch electronic document management system, the date and time of the corrected filing shall relate back to the date and time of the judge's attempted filing.

2.5(5) *Indictment rules applicable.* All provisions of these rules applying to prosecutions on indictments apply also to informations, except where otherwise provided by statute or these rules, or

when the context requires otherwise. Without limiting the foregoing, rules 2.4(4), 2.4(5), 2.4(6), and 2.4(7) shall apply to trial informations.

2.5(6) *Investigation by prosecuting attorney.*

a. The clerk of court, on written application of the prosecuting attorney and approval of the court, shall issue subpoenas, including subpoenas duces tecum, for such witnesses as the prosecuting attorney may require in investigating an offense.

b. In such subpoenas, the clerk of court shall direct the appearance of said witnesses before the prosecuting attorney at a specified time and place. In lieu of a witness's personal appearance, the subpoena may direct the witness to produce materials at a specified time and place.

c. The prosecuting attorney shall have the authority to administer oaths to said witnesses. The witness shall be subject to the same obligations as if subpoenaed before a grand jury.

d. The application and judicial order for any subpoena shall be maintained by the clerk of court in a confidential file until a charge is filed, in which event disclosure shall be made to the defendant unless the court, in an in camera hearing, orders that the application and order be kept confidential. [66GA, ch 1245(2), §1301; 67GA, ch 153, §14, 15; Report 1978, effective July 1, 1979; amendment 1979; amendment 1982; amendment 1983; amended February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; December 23, 2008, effective February 23, 2009; April 2, 2009, effective June 1, 2009; Court Orders October 14, 2022, November 7, 2022, effective July 1, 2023]

Rule 2.6 Multiple offenses or defendants; pleading special matters.

2.6(1) *Multiple offenses.* Two or more offenses that arise from the same transaction or occurrence, or from two or more transactions or occurrences constituting parts of a common scheme or plan, may be alleged and prosecuted as separate counts in a single indictment unless, for good cause shown, the trial court determines otherwise. Where a charged offense has lesser included offenses, the latter shall not be charged. The defendant may be convicted of either the offense charged or an included offense, but not both.

2.6(2) *Charging multiple defendants.*

a. *Multiple defendants.* Two or more defendants may be charged in the same indictment if they are alleged to have participated in the same act or the same transaction or occurrence out of which the offense or offenses arose. Such defendants may be charged in one or more counts together or separately, and all the defendants need not be charged in each count.

b. *Prosecution and judgment.* When two or more defendants are jointly charged, each shall be charged in a separate numbered case with a notation in the indictment of the number or numbers of the other cases. Those defendants shall be tried jointly unless, on motion of a defendant, the court determines that prejudice will result to one of the parties, in which case those defendants shall be tried separately. When jointly tried, defendants shall be adjudged separately on each count.

Comment: Revised rule 2.6(2) is not intended to modify existing law on charging multiple defendants.

2.6(3) *Allegations of prior convictions.* If the defendant will be subject to an increased penalty because of prior convictions, the prior convictions shall be alleged in the indictment. When the indictment is read or presented to the jury, there shall be no mention, directly or indirectly, of the prior convictions before conviction of the current offense.

2.6(4) *Other enhancements.* If the offense charged is one for which the defendant, if convicted, will be subject by reason of the Iowa Code to a greater minimum or maximum sentence because of some fact, such as use of a dangerous weapon, the allegation of such fact shall be contained in the indictment. If the allegation is supported by substantial evidence, the court shall submit to the jury a special interrogatory concerning this matter, as provided in rule 2.22(3).

2.6(5) *Pleading statutes.* A pleading asserting any statute of another state, territory, or jurisdiction of the United States, or a right derived from such statute, must reference the statute with a common citation form. The court may take judicial notice of the statute.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §16; amendment 1980; amendment 1982; amendment 1983; Report January 24, 2000, effective March 1, 2000; November 9, 2001, effective February 15, 2002; December 22, 2003, effective November 1, 2004; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.7 Warrants and summonses.

2.7(1) *Issuance.* Upon the request of the prosecuting attorney, the court shall issue a summons or warrant for each defendant named in the indictment who has not previously been held to answer. Where the defendant has previously been held to answer but the indictment has added new charges, the court may upon request of the prosecuting attorney issue a summons or warrant.

2.7(2) Form.

a. Warrant. The warrant shall substantially comply with rule 2.36—Form 6: *Arrest Warrant After Indictment or Information* or rule 2.36—Form 7: *Arrest Warrant When Defendant Fails to Appear for Sentencing*, as appropriate. The warrant shall be signed by a magistrate, describe the offense charged in the indictment, and command that the defendant be arrested and brought before the court. The amount of bail or other conditions of release may be fixed by the court and endorsed on the warrant.

b. Summons. The summons shall be in the form prescribed in Iowa Code section 804.2, except that it shall be signed by the clerk of court. A summons to a corporation shall be in the form prescribed in Iowa Code section 807.5.

2.7(3) Execution; service; return.

a. Execution or service. The warrant shall be executed or the summons served as provided in Iowa Code chapter 804. With respect to an incarcerated person, the court may enter an order directing that such person be produced for trial. The sheriff shall execute such order by serving a copy thereof on the warden or other individual having authority over such accused person in custody, and thereupon such person shall be delivered to such sheriff and conveyed to the place of trial.

b. Return. The officer executing a warrant or the person to whom a summons was delivered for service shall make return of the warrant.

2.7(4) Forfeiture of bail; warrant of arrest. If the defendant has been released and does not appear when a personal appearance is necessary, the court may issue a warrant for the defendant's arrest and, if appropriate, order the forfeiture of bail.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §17, 18; amendment 1983; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.8 Arraignment and plea.**2.8(1) Conduct of arraignment.**

a. Arraignment shall be conducted as soon as practicable following the filing of the indictment. If the defendant appears for arraignment without counsel, the court must inform the defendant of the right to counsel and ask if the defendant desires counsel. If the defendant desires counsel, and is unable by reason of indigency to employ any, the court must appoint defense counsel.

b. The defendant shall be given a copy of the indictment and the minutes of testimony before being called upon to plead.

c. Arraignment shall consist of reading the indictment to the defendant or, if the defendant waives reading, stating to the defendant the substance of the charge and calling on the defendant to enter a plea.

d. The defendant must inform the court whether the name shown in the indictment is the defendant's true and correct name. If the defendant gives no other name, the defendant is thereafter precluded from objecting to the indictment on the ground of being improperly named.

e. Unless otherwise ordered by the court, the defendant or the defendant's attorney may waive formal arraignment and enter a plea of not guilty by executing and filing a written arraignment that substantially complies with rule 2.37—Form 6: *Written Arraignment and Plea of Not Guilty*. If a written arraignment is used, the date of arraignment is deemed the date the written arraignment is filed.

2.8(2) Pleas to the indictment.

a. In general. A defendant may plead guilty, not guilty, or former conviction or acquittal. If the defendant fails or refuses to enter a plea at arraignment, or if the court refuses to accept a guilty plea, the court shall enter a plea of not guilty. A plea of not guilty does not waive any right to challenge the indictment.

b. Pleas of guilty. The court may refuse to accept a guilty plea. The court shall not accept a guilty plea without establishing that the plea is made voluntarily and intelligently and has a factual basis; and addressing the defendant personally in open court and informing the defendant of, and establishing that the defendant understands, the following:

(1) The nature and elements of the offense to which the plea is offered.

(2) The statutory maximum and minimum penalties for the offense to which the plea is offered. For purposes of this rule, penalties include incarceration, fines, surcharges, and any other punitive consequences of the conviction.

(3) That a criminal conviction, deferred judgment, or deferred sentence may result in the defendant not being able to vote, hold public office, or possess firearms or ammunition and may have adverse

consequences regarding housing, employment, federal or state benefits, student loans, and driving privileges, in addition to other consequences.

(4) That a criminal conviction, deferred judgment, or deferred sentence may affect a defendant's status under federal immigration laws. The court shall inform the defendant that if the defendant is not a citizen of the United States, the effects may include deportation, inability to reenter the United States, mandatory detention in immigration custody, ineligibility for release on bond during immigration proceedings, and increased penalties for unauthorized reentry into the United States.

(5) That the defendant has the right to a trial by jury; the defendant is presumed innocent and cannot be convicted unless the state establishes guilt beyond a reasonable doubt to the unanimous agreement of a twelve-person jury; and the defendant has the right to assistance of counsel, the right to confront and cross-examine witnesses, the right not to be compelled to incriminate oneself, and the right to present witnesses and to have compulsory process in securing their attendance.

(6) That by pleading guilty the defendant waives all trial rights and there will not be a trial of any kind.

(7) That if the defendant pleads guilty (and the offense is not a class "A" felony), no appeal may be taken unless there is good cause for the appeal.

(8) The court shall also inquire as to whether the defendant's willingness to plead guilty results from prior discussions between the prosecuting attorney and the defendant or the defendant's attorney. The terms of any plea agreement shall be disclosed of record as provided in rule 2.10(2). Subject to rule 2.10(3), the court shall inform the defendant that the court is not bound by any party's recommendation as to sentence and that the court will determine sentence at the time of judgment. If the defendant persists in the guilty plea and it is accepted by the court, the defendant shall not have the right to withdraw the plea later on the ground that the court did not follow the plea agreement.

(9) *Conditional Plea.* With the consent of the court and the prosecuting attorney, a defendant may enter a conditional plea of guilty, reserving in writing the right to have an appellate court review an adverse determination of a specified pretrial motion. A defendant who prevails on appeal may then withdraw the plea.

c. Manner and method of plea colloquy. The court shall question the defendant and may allow the defendant's attorney to question the defendant. The prosecuting attorney may suggest questions to be asked of the defendant.

Comment: *Alford* pleas are permitted in the court's discretion, so long as the plea meets the requirements of this rule. See *North Carolina v. Alford*, 400 U.S. 25, 37–38 (1970) (discussing the basis for the *Alford* plea procedure); *State v. Knight*, 701 N.W.2d 83, 89 (Iowa 2005) (noting that "the district court has discretion to accept" *Alford* pleas from defendants).

d. Challenging pleas of guilty. The court shall inform the defendant:

(1) That any challenges to a guilty plea based on alleged defects in the plea proceedings must be raised in a timely motion in arrest of judgment.

(2) Of the time period for filing a motion in arrest of judgment.

(3) That failure to raise such challenges in a motion in arrest of judgment shall preclude the right to assert them.

e. Immediate sentencing. Upon request of the defendant and agreement of the state, the court may proceed directly to judgment and sentencing if the defendant waives all of the following:

(1) The right to file a motion in arrest of judgment.

(2) The use of a presentence investigation.

(3) The allotted time period before entry of judgment.

2.8(3) Record of proceedings. A stenographic record of all plea colloquies shall be made.

2.8(4) Pleas of guilty to serious or aggravated misdemeanors or nonforcible class "D" felonies. With the court's approval, the defendant may waive personal colloquy in open court in a guilty plea to a serious or aggravated misdemeanor or a nonforcible class "D" felony. In such event, the defendant must sign a written document substantially complying with rule 2.37—Form 12: *Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies* that:

a. Demonstrates the defendant has been informed of and understands the matters set forth in rule 2.8(2)(b)(1)–(9).

b. Discloses and acknowledges the terms of any plea agreement, which shall also be acknowledged by the state.

c. Informs the defendant that any challenges to the guilty plea based on alleged defects in the plea proceedings must be raised in a motion in arrest of judgment and that failure to raise such challenges precludes the right to assert them on appeal.

2.8(5) *Withdrawal of guilty plea.* At any time before judgment and upon a showing of good cause and that it is in the interests of justice, the court may permit a guilty plea to be withdrawn and a not guilty plea substituted.

Comment: Revised rule 2.8(5) is not intended to modify existing law as to when a defendant who pleads guilty may withdraw that plea. However, there was a concern that former rule 2.8(2)(a) did not reflect current law because it could be read as providing for unfettered trial judge discretion regarding the withdrawal of a guilty plea at any time before judgment. [66GA, ch 1245(2), §1301; 67GA, ch 153, §19 to 23; Report 1978, effective July 1, 1979; amendment 1979; amendment 1982; amendment 1983; 1984 Iowa Acts, ch 1321, §1; Report of April 20, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 22, 2003, effective November 1, 2004; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.9 Trial assignments. Within 7 days after the entry of a plea of not guilty, the court shall, by written order, set the date and time for trial. If the defendant waives speedy trial at arraignment, the court may hold a case management conference within 30 days, at which the date and time for trial and deadlines for filing motions and taking depositions will be set.

[Report 1982; 1985 Iowa Acts, ch 174, §13; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.10 Plea bargaining.

2.10(1) *In general.* The prosecuting attorney and the defendant's attorney may engage in discussions toward reaching a plea agreement, i.e., an agreement that the defendant will plead guilty to one or more offenses in return for one or more concessions by the state.

2.10(2) *Advising the court of agreement.* If a plea agreement has been reached by the parties, the court shall require disclosure of the terms of the agreement on the record at the time the plea is offered. If the plea agreement is in writing, the agreement shall be provided to the court and made a part of the record. All parties shall acknowledge the agreement either in writing or in open court on the record.

2.10(3) *Plea agreements conditioned upon court acceptance.* If the plea agreement is conditioned upon the court's approval of a sentencing agreement between the parties, the court may accept or reject the plea agreement, or may defer its decision to accept or reject the plea agreement until receipt of a presentence investigation report.

a. Acceptance of conditional plea agreement. When the plea agreement is conditioned upon court approval of a sentencing agreement, and the court accepts the sentencing agreement, at or before the time the plea is accepted, the court shall inform the defendant that it will adopt the disposition provided for in the agreement or another disposition more favorable to the defendant.

b. Rejection of conditional plea agreement.

(1) When the plea agreement is conditioned upon court approval of a sentencing agreement, and the court determines it will reject the sentencing agreement, the court shall inform the parties of this fact and afford the defendant an opportunity to withdraw the plea. If the court defers its decision to accept or reject the plea agreement and later decides to reject the plea agreement after receiving the presentence investigation report, the court shall likewise afford the defendant the opportunity to withdraw the plea.

(2) If the court rejects the plea agreement, the court shall also advise the defendant that if the guilty plea continues, the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement. If the defendant persists in the guilty plea and it is accepted by the court, the defendant shall not have the right to withdraw the plea later on the ground that the court did not follow the plea agreement.

2.10(4) *Inadmissibility of plea discussions.* If plea discussions do not result in a guilty plea or if a guilty plea is not accepted or is withdrawn, or if judgment on a guilty plea is reversed on direct or collateral review, the content of any plea discussions and any resulting plea agreement, plea, or judgment shall be inadmissible in any proceeding except as provided in Iowa Rule of Evidence 5.410. [66GA, ch 1245(2), §1301; 67GA, ch 153, §24; amendment 1979; Court Order April 10, 1997; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.11 Pleadings and motions.

2.11(1) *Pleadings and motions.* Pleadings in criminal proceedings shall be the indictment and the pleas entered pursuant to rule 2.8(2). Defenses and objections raised before trial shall be raised by motion.

2.11(2) *Motions.* An application to the court for an order shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state the grounds upon which it is made and shall set forth the relief or order sought.

2.11(3) *Service and filing of motions, orders, and papers.* Service and filing of written motions, notices, orders, and other similar papers shall be in the manner provided by the Chapter 16 Iowa Rules of Electronic Procedure.

2.11(4) *Pretrial motions.* Any defense, objection, or request that is capable of determination before trial may be raised prior to trial by motion. The following must be raised prior to trial:

- a. Defenses and objections based on defects in the institution of the prosecution.
- b. Defenses and objections based on defects in the indictment other than lack of jurisdiction in the court or failure to charge an offense.
- c. Motions to suppress illegally obtained evidence pursuant to rule 2.12.
- d. Requests for discovery.
- e. Requests for a severance of charges or defendants.
- f. Motions for change of venue.
- g. Motions in limine.
- h. Motions for separate interpreters.
- i. Objections to enhancements based on prior convictions other than that the defendant was not the person convicted, or that the defendant was not represented and did not waive counsel.
- j. Motions for bill of particulars.

Comment: Former rule 2.11(9) authorized a “motion for change of judge” to be “verified on information and belief by the movant.” References to the motion of change of judge have been deleted from revised rule 2.11 because they have been superseded by other sources of law relating to recusal and disqualification. *See, e.g.,* Iowa Ct. R. 51:2.11. While a litigant should certainly move for disqualification of a judge when a legal ground for doing so arises, that is not the only way for disqualification to occur.

2.11(5) *Effect of failure to raise defenses or objections.* Failure of the defendant to timely raise defenses or objections or to make requests that must be made prior to trial under this rule shall constitute waiver thereof, but the court, for good cause shown, may grant relief from such waiver.

2.11(6) *Time of filing.* Pretrial motions, except motions for bill of particulars and motions in limine, shall be filed when the grounds therefor reasonably appear but no later than 40 days after arraignment. Motions in limine shall be filed when grounds therefor reasonably appear but no later than 9 days before the trial date. On request of a party, the court may establish different deadlines for filing motions.

2.11(7) *Bill of particulars.* When an indictment or information charges an offense, but fails to specify the particulars of the offense sufficiently to fairly enable the defendant to prepare a defense, the court may, on written motion of the defendant, require the prosecuting attorney to furnish the defendant with a bill of particulars containing such particulars as may be necessary for the preparation of the defense. A motion for a bill of particulars may be made any time prior to or within 10 days after arraignment unless the time is extended by the court for good cause shown. A plea of not guilty does not waive the right to move for a bill of particulars if such motion is timely filed within this rule. The prosecuting attorney may furnish a bill of particulars on the prosecuting attorney’s own motion, or the court may order a bill of particulars without motion. Supplemental bills of particulars may likewise be ordered by the court or voluntarily furnished, or a new bill may be substituted for a bill already furnished. At the trial, the state’s evidence shall be confined to the particulars of the bill or bills.

2.11(8) *Dismissing indictment or information.*

a. *In general.* A motion to dismiss the indictment or information may be made on the ground that the matters stated do not constitute the offense charged, that a prosecution for that offense is barred by the statute of limitations, or that the prosecution is barred by some other legal ground. If the court concludes that the motion is meritorious, it shall dismiss the indictment or information unless the prosecuting attorney furnishes an amendment that cures the defect.

b. *Indictment.* A motion to dismiss the indictment may also be made on one or more of the following grounds:

- (1) When the indictment has not been presented and marked “filed” as prescribed.
- (2) When any person other than the grand jurors was present before the grand jury when the question was taken upon the finding of the indictment.
- (3) When any person other than the grand jurors was present before the grand jury during the investigation of the charge, except as required or permitted by law.
- (4) When the grand jury was not selected, impaneled, or sworn as prescribed by law.

c. Information. A motion to dismiss the information may also be made on one or more of the following grounds:

- (1) When the minutes of testimony have not been filed with the information.
- (2) When the information has not been filed in the manner required by law.
- (3) When the information has not been approved as required under rule 2.5(4).

2.11(9) *Effect of determination.* If the court grants a motion based on a defect in the institution of the prosecution or in the indictment, it may also order that a defendant continue to be held in custody or that the defendant's bail be continued for a specified period pending the filing of a new indictment, or the amendment of any such pleading if the defect is subject to correction by amendment. The new information or indictment must be filed within 20 days of the dismissal of the original indictment. The 90-day period under rule 2.33(2)(b) for bringing a defendant to trial shall commence anew with the filing of the new indictment.

2.11(10) *Ruling on motion.* A pretrial motion shall be determined without unreasonable delay. Where factual issues are involved in determining a motion, the court shall state its essential findings on the record.

2.11(11) *Motion for change of venue.* If a motion for change of venue is filed and the court finds there is a substantial likelihood a fair and impartial trial cannot be preserved with a jury selected from the county where trial is to be held, the court shall order that the action be transferred to another county in which that condition does not exist.

a. When a motion for change of venue is granted, the prosecution shall continue in the county where the action is transferred. If the defendant is in custody, the court may order the defendant to be delivered to the sheriff of the receiving county.

b. All expenses attendant upon the change of venue and trial, including the costs of keeping the defendant, may be recovered by the receiving county from the transferring county. The prosecuting attorney in the transferring county is responsible for prosecution in the receiving county.

2.11(12) *Defense notices.*

a. Alibi. A defendant who intends to offer evidence of an alibi defense shall file written notice of such intention within the time provided for pretrial motions.

(1) The notice shall specify the place or places at which the defendant claims to have been at the time of the alleged offense and the names of the witnesses upon whom the defendant intends to rely to establish such alibi.

(2) In response, the prosecuting attorney shall, within 10 days of the defendant's notice or within such other time as the court may direct, file written notice of the names of the witnesses the state proposes to offer in rebuttal to the defendant's alibi.

(3) The notice of alibi and any rebuttal notice shall include witness addresses that conform to rules 2.11(13) and 2.13(2).

b. Insanity or diminished responsibility.

(1) *Notice of defense.* If a defendant intends to rely upon either the defense of insanity or the defense of diminished responsibility, the defendant shall file written notice of such intention within the time provided for filing pretrial motions. The court may for good cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make other orders as appropriate.

(2) *State's right to expert examination.* When a defendant intends to rely on an expert witness or witnesses for the defense of insanity or diminished responsibility, the defendant shall, within the time provided for filing pretrial motions, file written notice of the name of each such witness. Upon the prosecuting attorney's application in response, if a defendant's expert has examined the defendant, the court may order the examination of the defendant by a state-named expert or experts whose names shall be disclosed to the defendant prior to examination.

c. Examination of the defendant for purposes of other defenses. If a defendant's expert has examined the defendant for a reason other than insanity or diminished capacity and is expected to testify, the defendant shall, within the time for filing pretrial motions, file written notice of the name of the expert and the reason for examination. Upon the prosecuting attorney's application in response, the court may order the examination of the defendant by a state-named expert for the same purpose. The name of the state's expert shall be disclosed to the defendant prior to examination.

Comment: Rule 2.11(12)(c) is intended to codify the principle set forth in *State v. Rodriguez*, 807 N.W.2d 35, 38-39 (Iowa 2011), including the safeguards described therein.

d. Affirmative defenses. If defendant intends to rely upon an affirmative defense of intoxication, entrapment, justification, necessity, duress, mistake, or prescription drugs, the defendant shall, within the time for filing pretrial motions, file written notice of intention as to each such defense.

e. Failure to comply. If a party fails to abide by the deadlines in this rule, such party may not offer evidence on the issue without leave of court for good cause shown. In granting leave, the court may impose terms and conditions including a delay or continuance of trial. The right of a defendant to give evidence of alibi, insanity, diminished responsibility, or any affirmative defense in the defendant's own testimony is not limited by this rule. Additionally, this rule does not limit the scope of cross-examination or the defendant's entitlement to an instruction on a defense if supported by the evidence admitted at trial.

2.11(13) State's duty to disclose witnesses.

a. Duty to disclose addresses of law enforcement, governmental, and licensed professional witnesses. In the minutes of testimony, the state shall provide the defense with a written list of the known employment addresses of the following persons who are expected to testify in their official or professional capacity during the state's case-in-chief: sworn peace officers; federal, state, local, and municipal employees and elected officials; and licensed professionals.

b. Duty to disclose addresses of other witnesses. In the minutes of testimony, the state shall provide the defense with a written list of the known residential and employment addresses of the other witnesses who are expected to testify during the state's case-in-chief.

c. Grounds for withholding an address. If the state contends disclosure of any address would result in substantial risk to any person of physical harm, intimidation, bribery, economic reprisal, coercion, or undue invasion of privacy, the state may withhold disclosure and shall inform the defendant's attorney of the basis of the nondisclosure.

d. Disclosure of an address withheld by the state. If the state withholds disclosure of an address, the defendant's attorney may request in writing the disclosure of residential or alternative addresses for investigative purposes or to ensure service of a subpoena.

(1) Within 5 days of receipt of the request, the state shall confer with the defendant's attorney and provide the requested information to the defendant's attorney or seek a protective order from the court. The court may deny, defer, or otherwise restrict disclosure to the defendant's attorney if the state proves the disclosure would result in substantial risk to any person of physical harm, intimidation, bribery, economic reprisal, coercion, or undue invasion of privacy that outweighs any usefulness of the disclosure to the defendant's attorney.

(2) In establishing the usefulness of the disclosure to the defendant's attorney, the defendant's attorney may provide the court with a written statement to be reviewed by the court in camera. The written statement shall not be served on the state, but shall be made a part of the file, placed under seal, and not subject to disclosure absent further order of the court.

(3) If the court denies the defendant's attorney's request, the court may enter an order allowing the defendant's attorney an opportunity to meet with any witness who is willing to talk to the defendant in an environment that provides for the protection of the witness. The court shall also enter an order facilitating the defendant's attorney's ability to serve a subpoena on the witness for deposition or trial.

e. Further disclosure of addresses by the defendant's attorney. Any address disclosed by the state in the minutes of testimony may be disclosed by the defendant's attorney to the defendant, persons employed by the attorney, persons appointed by the court to assist in the preparation of a defendant's case, or any other person if the disclosure is required for preparation of the defendant's case. An attorney shall inform persons provided this information that further dissemination of the information, except as provided by court order, is prohibited. A willful violation of this rule by the defendant, an attorney, persons employed by an attorney, persons appointed by the court, or other persons authorized by the court to receive the address is subject to punishment by contempt.

f. Continuing duty to update. The state has a continuing duty to inform the opposing party of any change in the last known residential address or employment address of any witness that the state intends to call during its case-in-chief as soon as practicable after the state obtains that information.

g. Interference with witnesses. The defendant, attorneys representing the defendant or the state, and their representatives and agents shall not instruct or advise persons, except the defendant, having relevant information that they should refrain from discussing the case with the opposing party's attorney or an unrepresented defendant or from showing the opposing party's attorney or an unrepresented defendant any relevant evidence. The defendant, attorneys representing the defendant or the state, and their representatives and agents shall not otherwise impede investigation of the case by the opposing party's attorney or an unrepresented defendant. See Iowa R. Prof'l Conduct 32:3.4(a), (f).

h. Service of subpoenas. The most recent address provided by the state for a witness shall be the authorized address where the witness can be served, except when the defendant's attorney has reason to believe that the address is not accurate for that witness at the time of service, or the person in fact no longer works or resides at that address.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §25 to 36; amendment 1980; amendment 1981; 82 Acts, ch 1021, §1 to 3, effective July 1, 1983; amendment 1983; amendment 1984; 1984 Iowa Acts, ch 1320, §2; Report January 31, 1989, effective May 1, 1989; Report September 22, 1999; February 8, 2000; November 9, 2001, effective February 15, 2002; December 22, 2003, effective November 1, 2004; April 2, 2009, effective June 1, 2009; October 28, 2009, effective December 28, 2009; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.12 Suppression of unlawfully obtained evidence.

2.12(1) Motion to suppress evidence. A person aggrieved by an unlawful search, seizure, interrogation, or other unlawfully obtained evidence may move to suppress for use as evidence anything so obtained. The court shall receive evidence on any issue of fact necessary to the decision of the motion. The motion shall be made as provided in rules 2.11(4)–(6).

2.12(2) Discretionary review of an interlocutory order. Any party aggrieved by an interlocutory order affecting the suppression of evidence, except in simple misdemeanors, may apply for discretionary review of the order in advance of trial.

2.12(3) Effect of failure to file. Failure to file a timely motion to suppress evidence waives the objection that the evidence was unlawfully obtained unless good cause is shown for a later filing.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §37; amendment 1979; amendment 1980; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.13 Depositions.

2.13(1) By defendant. A defendant in a criminal case may depose all witnesses listed by the state in the minutes of testimony in the same manner, with the same effect, and with the same limitations, as in civil actions except as otherwise provided by statute and these rules.

2.13(2) Reciprocal disclosure of witnesses.

a. At or before the taking of any deposition by a defendant, the defendant shall file a written list of the names and addresses of all witnesses expected to be called for the defense except the defendant and surrebuttal witnesses.

b. The defendant shall have a continuing duty before and throughout trial promptly to disclose additional defense witnesses.

c. If the defendant has taken depositions and does not disclose to the prosecuting attorney all of the defense witnesses, except the defendant and surrebuttal witnesses, at least 9 days before trial, the court may order the defendant to permit the discovery of such witnesses, grant a continuance, or enter such other order as it deems just under the circumstances. The court may, if it finds that no less severe remedy is adequate to protect the state from undue prejudice, order the exclusion of the testimony of any such witnesses.

d. The state may depose any witness listed by the defense.

2.13(3) Objections to depositions. If either party objects to the taking of a deposition, the court shall determine whether discovery of the witness is necessary in the interest of justice and shall allow or disallow the deposition.

Comment: The former rule recognized only two objections to depositions: (1) that the witness was a foundation witness, and (2) that the witness had been adequately examined at the preliminary hearing. The revised rule recognizes there may be other legally valid objections to a deposition, e.g., the witness has already been deposed and there is no need for a second deposition.

2.13(4) Time of taking. If the defendant does not waive speedy trial, depositions shall be taken within 30 days after arraignment unless the deadline is extended by the court. If the defendant waives speedy trial, depositions shall be taken at least 30 days before trial unless the court orders otherwise.

2.13(5) Presence of defendant. Subject to rule 2.13(6)(c) and rule 2.27(1)(c), the defendant is required to be personally present at all depositions. If the identity of the defendant is at issue and the defendant makes a timely motion, the court may allow the defendant to be absent during the part of the deposition when the parties question an eyewitness concerning the identity of the perpetrator of the crime. In that event, all parties shall complete their examination of the eyewitness regarding identity before the defendant is required to be present.

2.13(6) Special circumstances.

a. Perpetuation of testimony where a witness will be unavailable at trial. Whenever the interests of justice make necessary the taking of the deposition of a prospective witness for use at trial, the court may, upon motion of a party and notice to the other parties, order that the deposition be taken and that any designated materials, not privileged, be produced at the same time and place. This provision is available even if the moving party is the only party intending to call the prospective witness at trial.

b. Continuation of the prosecuting attorney's investigation. After a complaint or indictment has been filed, the prosecuting attorney may continue to subpoena witnesses and utilize subpoenas duces tecum, as provided in rule 2.5(6). However, the defendant shall receive notice, and if a witness appears pursuant to a subpoena, the defendant shall have the opportunity to appear, cross-examine the witness, and review materials produced by the witness.

c. Minors. The court shall, upon motion of a minor complaining witness or the state on behalf of the minor, order that an interview or deposition of a minor be taken outside the personal presence of the defendant as follows:

(1) There shall be an audiovisual connection or other method allowing the defendant to see and hear the interview or deposition.

(2) The manner of taking of the interview or deposition shall ensure that the defendant shall not have contact with the minor.

(3) The defendant shall be allowed to communicate with the defendant's attorney in the room where the minor is being interviewed or deposed by an appropriate electronic method.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §38; amendment 1980; amendment 1981; amendment 1982; 1985 Iowa Acts, ch 174, §14; Report November 9, 2001, effective February 15, 2002; Court Orders October 14, 2022, May 31, 2023, effective July 1, 2023]

Rule 2.14 Discovery.

2.14(1) *Disclosure of evidence by the state upon defense request or motion.*

a. Disclosure required upon request.

(1) Upon a filed pretrial request by the defendant, the prosecuting attorney shall permit the defendant to inspect and copy:

1. Any relevant written or recorded statements made by the defendant, within the possession, custody, or control of the prosecuting attorney or investigating law enforcement agency unless those statements were included with the minutes of testimony accompanying the indictment.

2. The substance of any oral statement made by the defendant, which the state intends to offer in evidence at the trial, including any record of same.

3. The transcript or record of testimony of the defendant before a grand jury.

(2) When two or more defendants are jointly charged, upon the filed request of any defendant, the prosecuting attorney shall permit the defendant to inspect and copy any written or recorded statements and the substance of any oral statements of a codefendant that the state intends to offer in evidence at trial.

(3) Upon the filed request of the defendant, the state shall permit the defendant to inspect a copy of the defendant's prior criminal record, if any.

b. Discretionary discovery. Upon motion of the defendant, the court may order the prosecuting attorney to permit the defendant to inspect, copy, and photograph, and, where appropriate, subject to scientific tests:

(1) Items seized by the state in connection with the alleged crime.

(2) Any results or reports of physical or mental examinations and scientific tests or experiments made in connection with the particular case, within the possession, custody, or control of the state.

(3) Writings, recordings, photographs, or tangible objects within the possession, custody, or control of the prosecuting attorney or investigating law enforcement agency, which are material to the preparation of the defense, or are intended for use by the state as evidence at the trial, or were obtained from or belong to the defendant. This includes the transcript or record of any grand jury testimony given by a witness who is expected to testify in the government's case-in-chief.

2.14(2) *Disclosure of evidence by the defendant.* If the court grants the relief sought by the defendant under rule 2.14(1)(b), the defendant shall have a duty to permit the state to inspect and copy:

a. Writings, recordings, photographs, or tangible objects, including statements other than those of the defendant that are not privileged and are within the possession, custody, or control of the defendant, and which the defendant intends to introduce in evidence at trial.

b. Any results or reports of physical or mental examinations and scientific tests or experiments made in connection with the particular case, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when such results or reports relate to the witness's testimony.

2.14(3) *Continuing duty to disclose.* If following the issuance of an order under this rule, a party discovers additional evidence or decides to use additional evidence that would be subject to discovery under the same order, the party shall promptly disclose the evidence to the other party.

2.14(4) *Regulation of discovery.*

a. *Protective orders.* For good cause shown, the court may order the discovery or inspection be denied, restricted, or deferred, or make such other order as is appropriate.

b. *Failure to comply.* If a party fails to comply with this rule or with an order issued pursuant to this rule, the court may, upon timely application, order such party to permit the discovery or inspection, grant a continuance, prohibit the party from introducing any evidence not disclosed, or enter such other order as it deems just under the circumstances.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §39, 40, 41; amendment 1981; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.15 Subpoenas.

2.15(1) *For witnesses.* The clerk of court in any pending criminal action shall issue deposition or trial subpoenas for witnesses, signed by the clerk and with the seal of the court, and make them available to the defendant's attorney or the prosecuting attorney.

2.15(2) *For production of documents.* A subpoena may direct the witness to bring with the witness any documents, electronically stored information, or other things under the witness's control that the witness is bound by law to produce as evidence. The court on motion may dismiss or modify the subpoena if compliance would be unreasonable or oppressive.

2.15(3) *Special circumstances.*

a. *Defense Subpoenas.*

(1) After an indictment or trial information is filed, the defendant may apply to the court, with notice to the state, to issue a subpoena for the purposes of investigation. The application must include a list of all other reasonable efforts made by the defendant to obtain the material sought and must establish in detail and in good faith all of the following:

1. The material sought contains exculpatory information.
2. The material sought does not include private information concerning a crime victim in the case.
3. The material sought is not otherwise protected from disclosure by a separate rule of criminal procedure, rule of evidence, or federal or state statute.
4. The information is not available from any other source.

(2) If the court concludes that the defendant's application does not meet the requirements of rule 2.15(3)(a)(1), the court shall return or reject the defendant's application and deny any hearing.

(3) If the court concludes that the defendant's application has made the showing required by rule 2.15(3)(a)(1) by a preponderance of the evidence, it shall order the defendant to notify any person or entity affected by the defendant's application. Any objections, motions to quash or modify the subpoena, or motions for protective orders by the state or nonparties must be filed with the court within 14 days of receiving the notice from the defendant and must include the basis for the objection or motion and may include a request for a hearing.

(4) The court may limit the scope of any subpoena issued under rule 2.15(3) and enter any protective order as necessary in the interests of justice, including a requirement of in camera review of the materials obtained before disclosure to the parties.

(5) The defendant is responsible for service of any subpoenas permitted by the court under rule 2.15(3) and service must be made pursuant to rule 2.15(4). The defendant is responsible for any costs associated with the production of the requested materials.

(6) The defendant must produce any materials obtained by a subpoena issued under rule 2.15(3) to the state and any codefendants within 7 days of receipt of the materials or at least 10 days prior to trial, whichever is earlier.

(7) Rule 2.15(3)(a) is the exclusive procedure by which a criminal defendant may subpoena documents or other evidence before trial, except that a request for documents may be included with a rule 2.15(1) trial subpoena or a rule 2.15(2) deposition notice. Failure to comply with this rule may result in sanctions from the court, such as contempt or a finding that the evidence obtained is inadmissible at trial.

b. Preservation order. The defendant may seek a preservation order to avoid the risk of loss of evidence or other reason justifying relief by filing an emergency application with the court along with any supporting affidavits and a proposed order. Notice shall be given to the state when making this application. If the court finds good cause has been shown by the application and any supporting affidavits, the court shall immediately issue a preservation order to be served on the appropriate person or entity.

2.15(4) Service. Any person who is at least 18 years old and not a party to the case may serve a subpoena.

Comment: Investigators, paralegals, and attorneys may serve subpoenas unless they are a party to the case.

a. A peace officer must serve without delay in the peace officer's county or city any subpoena delivered to the peace officer for service and make a written return stating the time, place, and manner of service.

b. When service is made by a person other than a peace officer, proof thereof shall be made by affidavit, which shall be filed in the court and shall include the time, place, and manner of service and the name of the person served.

c. Service upon an adult witness is made by personally delivering a copy of the subpoena to the witness.

d. Service may be by electronic mail or other electronic means with the consent of the person or entity being served. Proof of service shall be filed with the court.

e. Service upon a minor witness shall be as provided for personal service of an original notice in a civil case pursuant to Iowa Rule of Civil Procedure 1.305(2).

f. Any subpoena must comply with Iowa Code section 622.10, if applicable.

2.15(5) Sanctions for refusing to appear or testify. Disobedience to a subpoena, or refusal to be sworn or to answer as a witness, may be punished by the court as contempt. The attendance of a witness who so fails to appear may be compelled by warrant.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §42; Report April 20, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.16 Pretrial conference.

2.16(1) When held. The court may order all parties to appear for a conference to consider such matters as will promote a fair and expeditious trial.

2.16(2) Subjects of the conference. The conference may cover such matters as amendment of pleadings, agreements as to the introduction of evidence, submission of requested jury instructions, and any other matters that may facilitate trial.

2.16(3) Stipulations and orders. The court shall enter an order reciting any action taken at the conference.

2.16(4) Orders on written agreement. Nothing in this rule shall prevent the court from entering orders without a hearing on written stipulation of the parties.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §43; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.17 Trial by jury or court.

2.17(1) Trial by jury. Cases required to be tried by jury shall be so tried unless the defendant voluntarily and intelligently waives a jury trial in open court and on the record. Any waiver of a jury trial must occur at least 10 days prior to trial unless the prosecuting attorney consents. The defendant may not withdraw waiver of a jury trial without court approval.

2.17(2) Trial on the minutes.

a. Generally. In a case where the parties agree to a trial on the minutes of testimony, the court shall render a verdict without a jury based on the previously filed minutes and any other material that the parties have agreed should be included in the trial record.

b. Jury waiver required. Before commencing a trial on the minutes, the court shall personally address the defendant and ensure the defendant has duly waived the right to a jury trial in open court and on the record.

c. Additional colloquy required. The court shall further address the defendant personally and in open court and inform the defendant of the following:

(1) That the determination of guilt or innocence will be based only upon the minutes of testimony filed by the state and any other materials the parties have agreed to be included.

(2) That the defendant will not have the right to call any witnesses on the defendant's behalf including the defendant.

(3) That the defendant is giving up the right to cross-examine the state's witnesses and to object to any evidence set forth in the minutes or any other materials the parties have agreed to be included.

d. Excluding information from a trial on the minutes. The parties may also agree to exclude portions of the minutes from consideration at trial, in which case the colloquy in rule 2.17(2)(c) will be adjusted accordingly.

2.17(3) Findings. In a case tried without a jury, the court shall find the facts specially, separately state its conclusions of law, and render an appropriate verdict in open court and on the record. The defendant may waive in advance the right to receive the verdict in open court.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §44; 69GA, ch 206, §16; amendment 1983; 1986 Iowa Acts, ch 1106, §1; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.18 Juries.

2.18(1) Definitions. The following terms, as used in this rule, are defined as follows:

a. Panel. Those jurors drawn or assigned for service to a courtroom, judge, or trial.

b. Pool. The sum total of prospective jurors reporting for service.

2.18(2) Selection of the panel. For each jury trial, the clerk of court shall randomly select a number of prospective jurors equal to twelve plus the prescribed number of alternates and strikes. The clerk may randomly select additional prospective jurors for the panel to allow for possible challenges for cause.

2.18(3) Depletion of the panel. If for any reason the panel is exhausted without a jury being selected, the panel shall be replenished from the pool or, if necessary, in the manner provided in Iowa Code chapter 607A.

2.18(4) Challenges to the panel or the pool. Before any juror is sworn for examination, either party may challenge the panel or the pool on the record distinctly specifying the grounds, which can be founded only on a material departure from the legal requirements for selecting the jury. Any officer, judicial or ministerial, whose irregularity is complained of, and any other persons, may be examined concerning the facts specified. If the court sustains the challenge, it shall discharge the panel or the pool, as appropriate.

2.18(5) Challenges to individual jurors for cause. A challenge for cause of an individual juror may be made orally by the state or the defendant and must distinctly specify the facts constituting the cause. A challenge may be made on an individual juror for any of the following causes:

a. A previous conviction of the juror of a felony unless it can be established through the juror's testimony or otherwise that:

(1) The juror's rights of citizenship have been restored.

(2) The juror is not currently under the supervision of the department of corrections, a judicial district department of correctional services, or the board of parole.

(3) The juror is not currently registered as a sex offender under chapter 692A or required to serve a special sentence under chapter 903B.

b. Failure to meet any of the qualifications prescribed by Iowa Code chapter 607A to render a person a competent juror.

c. A physical or mental condition that would reasonably render the juror incapable of performing the duties of a juror.

d. Affinity or consanguinity, within the fourth degree, to an alleged victim, complaining witness, or defendant.

e. Standing in the relation of guardian and ward, attorney and client, employer and employee, or landlord and tenant with an alleged victim, complaining witness, or defendant.

f. Having been adverse to the defendant in a prior civil action or criminal prosecution.

g. Having served on a grand jury that heard evidence of the case.

h. Having served on a trial jury that heard evidence of the case in a trial of another defendant.

i. Having been on a jury previously sworn to try the same indictment.

j. Having served as a juror in a civil action that heard evidence of the case.

k. Having formed or expressed such an opinion as to the guilt or innocence of the defendant as would prevent the juror from rendering a true verdict upon the evidence submitted on the trial.

l. Having provided bail for any defendant in the indictment.

m. Having been a defendant in a similar indictment or the victim of a similar offense within the preceding year.

n. Having been a witness either for or against the defendant at the preliminary hearing or before the grand jury.

o. Where the circumstances indicate the juror would have an actual bias for or against a party.

2.18(6) Examination of jurors. Before examination, the jurors shall be sworn. On sensitive subjects, the court may order that jurors be examined individually, separate from each other and in a location other than the courtroom. If an individual juror is challenged, the juror may be examined as a witness to prove or disprove the challenge and must answer every question pertinent to the inquiry thereon, but the juror's answers cannot be used in a civil or criminal proceeding against the juror, other than a prosecution for perjury or contempt. When a potential juror expresses actual bias relevant to the case, including but not limited to bias based on age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability, the court may clarify the juror's position but shall not attempt to rehabilitate the juror by its own questioning.

2.18(7) Order of challenges for cause. The state shall first complete its challenges for cause, followed by the defendant, until a number of jurors equal to twelve plus the prescribed number of strikes has been obtained.

2.18(8) Vacancy filled. If a challenge for cause is sustained, another juror shall be called and examined. Any new juror thus called may be challenged for cause and shall be subject to being struck from the list as other jurors.

2.18(9) Clerk to prepare list; procedure. The clerk of court shall prepare a list of jurors called. After challenges for cause are completed, each side, commencing with the state, shall alternately exercise its strikes by indicating the strike upon the list opposite the name of the juror.

2.18(10) Number of strikes.

a. Class "A" felonies. If the offense charged is a class "A" felony, the state and defendant shall each strike ten prospective jurors.

b. Other felonies. If the offense charged is a felony other than a class "A" felony, the state and the defendant shall each strike six prospective jurors.

c. Misdemeanors. If the offense charged is a misdemeanor, the state and the defendant shall each strike four prospective jurors.

2.18(11) Preserving appellate review of certain denials of challenges for cause.

a. To preserve for appellate review a claim that a challenge for cause was improperly denied when the party later exercised a strike on the same juror, a party must do the following outside the presence of the jury before the jury is impaneled:

(1) The party must identify a seated juror whom the party would have stricken if an additional strike had been available and state the reasons why the juror would have been stricken.

(2) The party must request an additional strike to be used on that juror.

b. If the court grants the additional strike, then another juror shall be called and examined as needed.

Comment: Rule 2.18(11) is intended to codify the procedure set forth in *State v. Jonas*, 904 N.W.2d 566 (Iowa 2017).

2.18(12) Multiple charges. If the indictment charges multiple offenses, the number of strikes shall be based on the highest grade of offense charged.

2.18(13) Multiple defendants. Where two or more defendants are tried together, each defendant shall have one-half the number of strikes allowed in rule 2.18(10). The state shall have the number of strikes equal to the total number of strikes allotted to all defendants. Subject to the court's approval, the parties may agree to a reduced number of strikes.

2.18(14) Selecting alternate jurors. The court may require selection of one or more alternate jurors whose qualifications will be the same as principal jurors.

a. The role of alternate jurors. An alternate juror shall replace a principal juror if, during trial, a principal juror becomes unable to serve.

b. Alternate juror selection procedure. Prior to commencing jury selection, the court must determine, on the record, with input of the attorneys, how many alternate jurors will be selected and how they will be selected, provided that any method of selection must comply with this rule. The clerk of court will call for examination the number of additional prospective jurors necessary to allow for the number of alternates to be selected and one additional strike for each party.

c. Examination and seating of alternate jurors. Jury examination will proceed contemporaneously for both principal and alternate jurors.

d. Identity of alternate jurors. The identity of the alternate jurors will not be revealed to the jury or the alternates until the jury retires to deliberate.

e. Excusing alternate jurors. Once the jury commences deliberations, any remaining alternate jurors shall be excused from further service and not recalled.

2.18(15) Reading of names or numbers. After all challenges have thus been exercised or waived and the required number of jurors has been struck from the list, the court shall read the names or assigned numbers of the jurors remaining, including any alternates, who shall constitute the jury selected.

2.18(16) Jurors sworn. Once the jurors are selected, they shall be sworn to try the issues. [66GA, ch 1245(2), §1301; 67GA, ch 153, §45 to 49; Report 1978, effective July 1, 1979; amendment 1980; amendment 1982; 82 Acts, ch 1021, §4, effective July 1, 1983; amendment 1983; 1986 Iowa Acts, ch 1108, §56; November 9, 2001, effective February 15, 2002; Court Order June 30, 2016, temporarily effective June 30, 2016, permanently effective August 30, 2016; February 19, 2021, temporarily effective February 19, 2021, permanently effective April 21, 2021; October 14, 2022, November 7, 2022, May 31, 2023, effective July 1, 2023]

Rule 2.19 Trial.

2.19(1) Order of trial and arguments. After the jury has been impaneled and sworn, the trial shall proceed in the following order:

a. The prosecuting attorney must read the accusation from the indictment and state the defendant's plea to the jury. The level of offense shall not be read.

b. The prosecuting attorney may summarize the evidence expected to sustain the indictment.

c. The defendant's attorney may summarize the expected evidence, waive the making of such statement, or reserve the right to make such statement immediately prior to the presentation of the defendant's evidence.

d. The prosecuting attorney shall offer evidence in support of the indictment.

e. The defendant's attorney may offer evidence in support of the defense.

f. Either party may offer rebutting evidence.

g. After the completion of evidence, the prosecuting attorney may offer a closing argument, the defendant's attorney may offer a closing argument, and the prosecution may offer a rebuttal.

Comment: Former rule 2.19(1)(b) provided that "[l]ength of argument and the number of counsel arguing shall be as limited by the court." There is no intent to change this law; however, the drafters of the revised rule did not want to imply that the court lacked authority to limit segments of the trial other than the closing argument.

2.19(2) Advance notice of evidence supporting indictment.

a. The prosecuting attorney shall not be permitted to introduce any witness whose minutes of testimony were not filed at least 10 days before the commencement of trial, except rebuttal witnesses.

b. If the prosecuting attorney does not provide the requisite notice, the court may order the state to permit the discovery of such witness, grant a continuance, or enter such other order as it deems just under the circumstances. If the court finds that no less severe remedy is adequate to protect the defendant from undue prejudice, the court may order the exclusion of the testimony of any such witness.

2.19(3) Reporting of trial. Reporting of the trial shall be governed by Iowa Rule of Civil Procedure 1.903. However, reporting may not be waived except for voir dire in misdemeanor cases.

2.19(4) The jury during trial.

a. Motion for a view. Upon motion of either party, the court may allow the jury to view a location material to the case. The jury shall be accompanied by a person designated by the court and transported by proper officers. Any person accompanying the jury shall be sworn to protect the integrity of the proceedings and shall not allow communications to occur on any subject connected with the trial.

b. Juror may not be witness. A juror may not testify as a witness in the trial of the case in which the juror is sitting.

c. Sequestration of jurors. For good cause shown, the court may sequester the jury during trial in a manner prescribed by the court.

d. Admonition to jurors.

(1) After the jury is impaneled, the court shall admonish the jurors:

1. Not to speak or communicate with any person and not to permit any person to speak to or communicate with them regarding any subject related to the case. This prohibition includes all forms of communication, including social media.

2. To report immediately to the court any attempt by anyone to communicate with them in any way concerning the case.

3. Not to converse among themselves or form or express an opinion on any aspect of the case until the case is finally submitted.

4. Not to visit any place involved in the case, including the scene of the alleged offense.

5. Not to view, read, or listen to any accounts of the case or trial, whether on traditional media or social media.

6. Not to do any searches, research, experiments, or tests relating to anything connected with the case or trial. This includes internet research and accessing social media.

(2) At adjournments, the court shall restate or remind the jury of the admonition.

e. Notes taken by jurors during trial. Notes may be taken by jurors during the testimony of witnesses. At the completion of the jury's deliberations, the court shall destroy any notes taken during the trial.

f. Exhibits during deliberations. Upon retiring for deliberations, the jury shall be given the exhibits received in evidence and the court's instructions. Redactions should be made before exhibits are received in evidence. The jury shall not be given depositions. The court may also withhold from the jury original exhibits whose presence in the jury room could present an issue of safety, security, or risk of loss.

g. Instructions. The rules relating to the instruction of juries in civil cases apply to criminal cases.

h. Duty of the court to instruct on lesser included offenses. The trial court shall instruct the jury as to any offense charged and any lesser included offense supported by the evidence. The defendant may, with the consent of the state, waive the submission to the jury of any lesser included offense. Such waiver shall be made on the record.

i. Jury deliberations. On final submission, the jury shall retire for deliberation and be kept together under an officer's charge until the jurors agree on a verdict or are discharged by the court. Unless the jury is sequestered, the court may permit the jurors to separate temporarily overnight, on weekends, on holidays, and in emergencies.

j. Duties of the officer in charge during deliberations. The officer in charge must be sworn to:

(1) Not allow any communication to or from the jury during deliberations.

(2) Not personally make any communication to the jurors without court order, except to ask if they have agreed on a verdict.

(3) Not communicate to any person the state of the jury's deliberations or the verdict agreed upon before it is rendered.

k. Juror inquiries. After the jury has retired for deliberation, if any member of the jury has a question as to any part of the evidence or relevant point of law, the question must be made in writing and delivered to the judicial assistant by a juror, who shall then deliver it promptly to the presiding judge. The court, after consultation with the parties outside the presence of the jury, shall determine the response to be provided. Any response shall be provided in writing. A record shall be made of the question and the response.

2.19(5) Mistrial.

a. Discharge for mistrial.

(1) The court may declare a mistrial and discharge a jury for the following reasons:

1. Because of any accident or calamity requiring termination of the trial upon motion of a party for cause shown.

2. When a required continuance would make it impractical to proceed with the same jury.

3. When the jurors have deliberated until it satisfactorily appears that they cannot agree.

4. Because of an error resulting in the denial of a fair trial.

(2) If the court declares a mistrial, the case shall be retried within 90 days unless double jeopardy bars further prosecution, the defendant waives speedy trial, or good cause for further delay is shown.

b. Lack of territorial jurisdiction. If the court determines it lacks territorial jurisdiction of the offense, the court shall dismiss the indictment and discharge the jury. The court shall either order the immediate release of the defendant or order the defendant's retention in custody for a reasonable time to allow the prosecuting attorney to inform the relevant authorities in the appropriate jurisdiction and to permit that jurisdiction to take custody of the defendant.

2.19(6) The trial judge.

a. Unavailability of the trial judge. If the judge before whom trial has commenced is unable to continue presiding over any stage of the case, including sentencing, another judge may complete

the proceedings. If such other judge cannot in fairness complete the proceedings due to not having previously presided, that judge may grant a new trial.

b. Adjournments declared by the trial court. While the jury is absent, the court may adjourn for other business, but it shall be available for every purpose connected with the case submitted to the jury until a verdict is rendered or the jury is discharged.

2.19(7) Motion for judgment of acquittal.

a. Motion before submission to the jury. At the close of evidence on either side, if the evidence is insufficient to sustain a conviction of an offense, the court on motion of a defendant or on its own motion shall enter a judgment of acquittal on that offense.

b. No need to renew motion. If a defendant's motion for judgment of acquittal at the close of the state's case is not granted, the defendant may offer evidence without having to renew the motion at the close of evidence.

c. Reservation of decision on motion. If a motion for judgment of acquittal is made at the close of all evidence, the court may either decide the motion at that time or reserve decision on the motion and submit the case to the jury. In the latter case, the court shall decide the motion after the jury returns a verdict or is discharged without having returned a verdict.

2.19(8) Trial of questions involving prior convictions. After conviction of the current offense, but prior to pronouncement of sentence, if the indictment alleges one or more prior convictions that subject the defendant to an increased sentence, the defendant shall have the opportunity in open court to affirm or deny that the defendant is the person previously convicted, or that the defendant was not represented by counsel and did not waive counsel when previously convicted.

a. Prior to accepting any affirmation by the defendant, the court shall determine that a factual basis exists for the affirmation and shall have a colloquy with the defendant to ensure any admission is knowing and voluntary consistent with rule 2.8(2). The court shall inform the defendant:

(1) Of the nature and elements of the enhancement.

(2) That the prior convictions must have been obtained when the defendant was represented by, or waived the right to, counsel.

(3) Of the maximum and minimum possible punishment resulting from the enhancement.

(4) That by affirming that the defendant is the person previously convicted, the defendant waives the right to a trial by jury, the right to the assistance of counsel, the right to confront and cross-examine witnesses, and the right against self-incrimination.

(5) That the defendant's affirmation means no trial will be held on whether the defendant is the person previously convicted.

(6) That the state is not required to prove the prior convictions were entered with counsel if the defendant does not first raise the claim.

(7) That any challenges to the increased sentence resulting from the prior convictions must be raised in a timely motion in arrest of judgment and failure to raise such challenges shall preclude the right to assert them on appeal.

b. If the defendant denies being the person previously convicted, sentence shall be postponed for such time as to permit a trial before a jury on the issue of the defendant's identity with the person previously convicted. Other objections shall be heard and determined by the court.

c. On the issue of identity, the court may reconvene the jury that heard the current offense or dismiss that jury and submit the issue to another jury to be later impaneled.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §50 to 57; Report 1978, effective July 1, 1979; amendment 1979; amendment 1982; Report December 29, 1992, effective July 1, 1993; November 9, 2001, effective February 15, 2002; June 17, 2010, effective August 16, 2010; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.20 Witnesses.

2.20(1) The defendant. A defendant in a criminal action or proceeding shall be a competent witness in the defendant's own behalf but cannot be called by the state.

Comment: No substantive changes are intended from former rule 2.20(1).

2.20(2) Compelling attendance of out-of-state witnesses. The presence and testimony of a witness located outside the state may be secured as provided by Iowa Code chapter 819.

2.20(3) Immunity.

a. Waiver required. Before any witness shall be compelled to answer or to produce evidence in any judicial proceeding after having asserted in good faith that such answer or evidence would violate the witness's privilege against self-incrimination, the witness must knowingly waive the right unless granted immunity.

b. Application for immunity. If a witness refuses to testify or produce documents or evidence the county attorney or attorney general may file a verified application for immunity setting forth that:

(1) The testimony of the witness or the production of documents or other evidence in the possession of such witness is necessary and material.

(2) The witness has refused to testify, or to produce documents or other evidence upon the ground that such testimony or evidence would tend to incriminate the witness.

(3) It is the considered judgment of the county attorney or attorney general that justice and the public interest require the testimony, documents, or evidence in question.

c. Reporting required. Any testimony given in support of the application for immunity shall be reported and a transcript of the testimony shall be filed with the application.

d. Ruling on application. Following receipt of a proper application, the court shall enter an order granting the witness immunity from prosecution for any offense concerning which the witness is compelled to give testimony or provide evidence and based on the use, direct or indirect, of any testimony or evidence the witness is compelled to give.

e. Effect of immunity. Testimony or evidence that a witness granted immunity has given shall not be used against the witness in any trial or proceeding, or subject the witness to any penalty or forfeiture, except a charge of perjury or contempt of court committed in the course of or during the giving of such testimony. In addition, the witness shall not be prosecuted for any offense concerning which the witness was compelled to give testimony or provide evidence.

Comment: The changes to this part of rule 2.20 are intended to make clear that the rule follows the holding of *Allen v. Iowa District Court*, 582 N.W.2d 506 (Iowa 1998), with respect to the scope of immunity—i.e., the immunity is both transactional and use immunity.

f. Filing of application and other materials. The application, transcripts, and orders required by this rule shall be filed as a separate case in the criminal docket entitled “In the matter of the testimony of (Name of witness).” A transcript of testimony given pursuant to an order of immunity shall be made at state expense and filed in this docket. The application, order granting immunity, and all transcripts filed shall be sealed upon motion of the witness, the defendant, or the prosecuting attorney and shall be opened only by order of the court.

g. Refusal to testify after immunity granted. Whoever shall refuse to testify or to produce evidence after having been granted immunity shall be subject to punishment for contempt of court as in the case of any witness who refuses to testify.

2.20(4) Witnesses for indigents. An attorney for a defendant who because of indigency is financially unable to obtain expert or other witnesses necessary to an adequate defense of the case may request in a written application that the necessary witnesses be secured at state expense. Upon finding that the services are necessary and that the defendant is financially unable to provide compensation, the court shall authorize the defendant’s attorney to obtain the witnesses on behalf of the defendant. The court shall determine reasonable compensation and direct payment pursuant to Iowa Code chapter 815.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §58 to 60; 1983 Iowa Acts, ch 186, §10145; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.21 Evidence.

2.21(1) Rules. Chapter 5 Iowa Rules of Evidence apply to criminal proceedings.

2.21(2) Questions of law and fact. In a jury trial of a criminal case, questions of law are decided by the court and questions of fact are determined by the jury.

2.21(3) Corroboration of accomplice or person solicited. A conviction cannot be had upon the testimony of an accomplice or a solicited person unless corroborated by other evidence, which shall tend to connect the defendant with the commission of the offense. Corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof. Corroboration of the testimony of victims shall not be required.

2.21(4) Confession of the defendant. The confession of the defendant, unless made in open court, will not warrant a conviction unless accompanied with other proof that the defendant committed the offense.

2.21(5) Disposition of exhibits.

a. In all criminal cases other than class “A” felonies, the clerk of court may dispose of all exhibits when 180 days have elapsed after the expiration of all sentences imposed in the case. In class “A” felonies, the clerk may dispose of all exhibits 180 days after the death of the defendant.

b. In no event shall the clerk of court dispose of exhibits when there is a pending appeal or postconviction-relief action.

c. Disposal of firearms and ammunition shall be by delivery to the Department of Public Safety for disposition as provided by law. Disposal of controlled substances shall be by delivery to the seizing law enforcement agency for disposal under Iowa Code section 124.506.

d. Any motion for return of an exhibit must be filed before the date when the clerk of court is permitted to dispose of the exhibit.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §61 to 63; 1983 Iowa Acts, ch 37, §7; 1985 Iowa Acts, ch 174, §15; Court Order January 2, 1996, effective March 1, 1996; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.22 Verdict.

2.22(1) Form of verdicts. For each count submitted in the jury instructions, the jury must render a unanimous verdict of “guilty,” “not guilty,” or “not guilty by reason of insanity.” The jury’s verdict shall include a determination of the degree of offense on those counts where the level of offense must be determined.

2.22(2) Proof necessary to sustain verdict of guilty.

a. *Reasonable doubt.* Where there is a reasonable doubt of the defendant’s guilt, the defendant is entitled to an acquittal.

b. *Reasonable doubt as to degree.* Where there is a reasonable doubt as to the degree of the offense of which the defendant is guilty, the defendant shall only be convicted of the degree as to which there is no reasonable doubt.

2.22(3) Special interrogatories.

a. For each special interrogatory submitted in the jury instructions, the jury’s verdict form must include a place for an answer. The following issues require special interrogatories:

(1) Whether a witness was an accomplice when the evidence warrants its submission.

(2) Whether such accomplice’s testimony was corroborated.

(3) Factual findings that subject the defendant to a greater minimum or maximum sentence, such as whether the defendant committed the offense with the use of a dangerous weapon.

(4) Whether an offense was sexually motivated for purposes of sex offender registration.

b. The parties may agree to waive the submission of special interrogatories on the accomplice issues identified in 2.22(3)(a)(1) and (2). Such waiver shall be made on the record.

2.22(4) Multiple defendants or offenses. If the jury cannot agree on a verdict as to all defendants or offenses, it may render a verdict as to those defendants or offenses where it agrees. A judgment shall be entered accordingly as to those defendants or offenses and the case as to the remaining defendants or offenses may be tried by another jury.

2.22(5) Return of jury and verdict.

a. *Return and polling of unanimous verdict.* The jury, unanimously agreeing upon a verdict, shall bring the verdict into court, where it shall be read aloud, and inquiry made of the jurors if it is their verdict. A party may then require a poll asking each juror if it is the juror’s verdict. If any juror expresses disagreement on such poll or inquiry, the jury shall be sent out for further deliberation; otherwise, the verdict is complete and the jury shall be discharged.

b. *Sealed verdicts.* In any misdemeanor case, the court may permit the return of a sealed verdict on agreement of the parties. Such verdict shall be signed by all jurors, sealed, and delivered to the court, which shall enter it upon the record and disclose it to the parties as soon as practicable. The sealing of the verdict is equivalent to rendition in open court, but the jury shall not be polled or permitted to disagree with the verdict.

2.22(6) Verdict insufficient or inconsistent; reconsideration. If the jury renders a verdict that is in none of the forms specified in this rule, or renders a verdict of guilty in which it appears to the court that the jury was mistaken as to the law, or renders a verdict that is inconsistent, the court may direct the jury to reconsider it.

2.22(7) Defendant discharged on acquittal. If judgment of acquittal is given on a general verdict of not guilty and the defendant is not detained for any other legal cause, the defendant must be discharged as soon as the judgment is given.

2.22(8) Acquittal on ground of insanity; commitment hearing.

a. *Insanity defense verdict form.* If the defendant raises a defense of insanity, the verdict form shall include the defense as a possible verdict.

b. *Commitment for evaluation.*

(1) Upon a verdict of not guilty by reason of insanity, the court shall immediately order the defendant committed to a state mental health institute or other appropriate facility for a complete

psychiatric evaluation and shall set a date for a hearing to inquire into the defendant's present mental condition.

(2) The court shall prepare written findings that shall be delivered to the facility at the time the defendant is admitted fully informing the chief medical officer of the facility of the reason for the commitment.

(3) The court shall direct the chief medical officer to report to the court in writing within 15 days of the admission of the defendant to the facility, stating the chief medical officer's diagnosis and opinion as to whether the defendant is mentally ill and dangerous to the defendant's self or others. An extension of time for the evaluation, not to exceed 15 days, may be granted upon the chief medical officer's request after due consideration of any objections or comments the defendant may have.

(4) Upon receipt of the report, the court shall promptly forward a copy to the defendant's attorney and to the prosecuting attorney.

c. Independent examination. The defendant may have a separate examination conducted at the facility by a licensed physician of the defendant's choice. The report of the independent examiner shall be submitted to the court.

d. Return for hearing. Upon receipt of the report or any subsequent report, the court shall hold a hearing to inquire into the defendant's mental condition. All parties shall be present. However, if the chief medical officer believes uninterrupted custody of the defendant at the facility is necessary to ensure the defendant's safety or the safety of others and states that finding in the report, the court may direct the chief medical officer to make arrangements for the defendant to appear at the hearing by phone or interactive audiovisual system.

e. Hearing; release or retention in custody.

(1) If, upon hearing, the court finds that the defendant is either not mentally ill or no longer dangerous to the defendant's self or others, the court shall order the defendant released. If, however, the court finds that the defendant is mentally ill and dangerous to the defendant's self or others, the court shall order the defendant committed to a state mental health institute or other appropriate facility. The court shall give due consideration to the chief medical officer's findings and opinion along with any other relevant evidence that may be submitted.

(2) No more than 30 days after entry of an order for continued custody, and thereafter at intervals of not more than 60 days as long as the defendant is in custody, the chief medical officer of the facility to which the defendant is committed shall report to the court which entered the order. Each periodic report shall describe the defendant's condition and state the chief medical officer's prognosis if the defendant's condition has remained unchanged or has deteriorated. The court shall forward a copy of each report to the defendant's attorney and to the prosecuting attorney.

(3) If the chief medical officer reports at any time that the defendant is either no longer mentally ill or no longer dangerous to the defendant's self or others, the court shall hold a hearing to determine if continued custody and treatment of the defendant are necessary because the defendant remains mentally ill and dangerous to the defendant's self or others. If the court finds continued custody is necessary, the court shall order the defendant committed to a state mental health institute or other appropriate facility for further evaluation, treatment, and custody. Otherwise, the court shall order the release of the defendant.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §64, 65; amendment 1980; amendment 1982; 1984 Iowa Acts, ch 1323, §5; amendment 1999; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.23 Judgment.

2.23(1) Entry of judgment.

a. Acquittal. Upon a verdict of not guilty for the defendant or special verdict upon which a judgment of acquittal must be given, the court must render judgment of acquittal immediately.

b. Conviction. Upon a guilty plea, guilty verdict, or a special verdict upon which a judgment of conviction may be rendered, the court must fix a date for pronouncing judgment, which must be within a reasonable time but not less than 15 days after the plea is entered or the verdict is rendered unless the defendant consents to a shorter time.

2.23(2) Imposition of sentence.

a. Written sentencing agreement. For misdemeanors and nonforcible class "D" felonies, with court approval, the parties may submit a written sentencing agreement pursuant to rule 2.27(3)(c) in place of in-person sentencing.

b. Informing the defendant. When the defendant appears for judgment, the court shall inform the defendant of the defendant's plea or the verdict and ask whether the defendant has any legal cause to show why judgment should not be pronounced. The defendant, by timely motion, may show for cause against the entry of judgment any sufficient ground for a new trial or in arrest of judgment.

c. Incompetency. The provisions of Iowa Code chapter 812 apply to sentencing proceedings.

d. Procedure. Before imposing sentence, the court shall do all of the following:

(1) Verify that the defendant and the defendant's attorney have read and discussed the presentence investigation report and any addendum to the report.

(2) Provide the defendant's attorney an opportunity to speak on the defendant's behalf.

(3) Address the defendant personally in order to permit the defendant to make a statement or present any information to mitigate the defendant's sentence.

(4) Provide the prosecuting attorney an opportunity to speak.

(5) After hearing any statements presented, the court shall address any victim of the crime who is present at the sentencing and shall allow any victim to be reasonably heard, including, but not limited to, by presenting a victim-impact statement in the manner described in Iowa Code section 915.21.

e. Other witnesses or evidence. Before receiving victim statements, the trial court, in its discretion, may permit either side to present additional witnesses or evidence in support of its position.

f. Basis for sentence imposed. The court shall ensure that the basis for the sentence imposed appears in the record. The court shall consider all of the following:

(1) The recommendation of the prosecuting attorney, subject to the terms of the plea agreement, if any.

(2) The recommendation of the defendant's attorney, subject to the terms of the plea agreement, if any, and any statement of the defendant.

(3) The statement of the victim or victims of the offense, if any, as provided by law.

(4) The content and recommendation of the presentence investigation report.

(5) All other factors required by law to be considered.

g. Judgment entered. If no sufficient cause is shown why judgment should not be pronounced, and none appears to the court upon the record, judgment shall be rendered. In every case, the court shall include in the judgment entry the number of the particular section of the Code under which the defendant is sentenced. The court shall state on the record the basis for the sentence imposed and shall particularly state the reason for imposition of any consecutive sentence.

h. Notification of right to appeal. After imposing sentence in a case, the court shall advise the defendant in open court and on the record of the following:

(1) That the defendant has a statutory right to appeal.

(2) That if the defendant pled guilty to an offense other than a class "A" felony, no appeal may be taken without good cause.

(3) The deadline for filing an appeal.

(4) That the deadline for appeal is jurisdictional and that failing to file an appeal on time and in the manner specified in Iowa Rule of Appellate Procedure 6.101 will mean the defendant cannot appeal.

(5) That a person who is unable to pay the costs of appeal can apply to the court for appointment of counsel and the preparation of transcripts as provided in Iowa Code sections 814.9, 814.10, and 814.11.

i. Clerical mistakes. Clerical mistakes in judgments, orders, or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §66 to 68; Report 1978, effective July 1, 1979; 1984 Iowa Acts, ch 1323, §6; Report June 5, 1985, effective August 5, 1985; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.24 Motions after trial.

2.24(1) In general. Permissible motions after trial include motions for new trial, motions in arrest of judgment, and motions to correct a sentence.

2.24(2) New trial.

a. Motion generally. A motion for new trial by the defendant shall be made not later than 45 days after verdict of guilty or special verdict upon which a judgment of conviction may be rendered and not later than 5 days before the date set for pronouncing judgment.

b. Grounds. The court, after giving the parties notice and an opportunity to be heard, may grant a new trial on any of the following grounds:

(1) When the trial has been held in the absence of the defendant, in cases where such presence is required by law, except as provided in rule 2.27.

(2) When the jury has been prejudicially exposed to information the jury was not authorized to receive.

(3) When the jurors have separated without leave of court, after retiring to deliberate upon their verdict, or have been guilty of any misconduct tending to prevent a fair and just consideration of the case.

(4) When the verdict has been decided by lot, or by means other than a fair expression of opinion on the part of all jurors.

(5) When the jury was improperly instructed in a material matter.

(6) When the prosecuting attorney has committed prejudicial error or misconduct.

(7) When the verdict is contrary to law or contrary to the weight of the evidence.

(8) When from any other cause the defendant has not received a fair and impartial trial.

c. Motion alleging newly discovered evidence. A motion for a new trial based upon newly discovered evidence may be made by the defendant after judgment when the defendant has discovered important and material evidence in the defendant's favor since the verdict that the defendant could not with reasonable diligence have discovered and produced at the trial.

(1) A motion based upon this ground shall be made without unreasonable delay and, in any event, within 2 years after final judgment, but such motion may be considered thereafter upon a showing of good cause.

(2) When a motion for a new trial is made upon the ground of newly discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits or testimony of the witnesses by whom such evidence is expected to be given. The court may, upon request of the defendant, allow the defendant additional time to procure such affidavits or testimony for such length of time as may be reasonable under all circumstances of the case.

d. Trials without juries. On a motion for a new trial in an action tried without a jury, the court may where appropriate, in lieu of granting a new trial, vacate the judgment if entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and enter judgment accordingly.

e. Effect of a new trial. Upon a new trial, the former verdict cannot be used or referred to either in evidence or in argument.

Comment: Former rule 2.24(2)(a) provided that the court could "grant a motion for a new trial even for a reason not asserted in the motion." Revised rule 2.24 does not deprive the court of that authority but makes clear that it may only be exercised after notice and an opportunity to be heard.

2.24(3) Arrest of judgment.

a. Motion.

(1) A defendant may file a motion in arrest of judgment to urge that no judgment be rendered on a finding, plea, or verdict of guilty.

(2) A defendant's failure to challenge the adequacy of a guilty plea proceeding by motion in arrest of judgment shall preclude the defendant's right to assert such challenge on appeal.

b. Time of making motion. The motion must be made not later than 45 days after a guilty plea, guilty verdict, or special verdict upon which a judgment of conviction may be rendered, but in any case not later than 5 days before the date set for pronouncing judgment.

c. Grounds. Such motion shall be granted when upon the whole record no legal judgment can be pronounced.

d. On the court's own motion. The court may arrest the judgment on its own motion if grounds for doing so exist as set forth in rule 2.24(3)(c).

e. Effect of order arresting judgment.

(1) An order arresting judgment on the ground the guilty plea proceeding was defective places the defendant in the situation in which the defendant was immediately after the indictment was found. However, when the only ground upon which the guilty plea is found to be defective is failure to establish a factual basis for the charge, the court shall afford the state an opportunity to establish an adequate factual basis before arresting judgment.

(2) An order arresting judgment on any other ground places the defendant in the situation in which the defendant was immediately before the indictment was found.

f. Proceedings after order arresting judgment on any ground other than a defect in a guilty plea proceeding. If a motion arresting judgment is granted, but from the trial evidence, there is reasonable ground to believe the defendant is guilty of an offense and a new indictment can be framed, the court

may order that a defendant in custody continue to be held in custody or that a defendant's bail be continued for a specified period pending the filing of a new indictment. If the evidence upon trial appears to the trial court insufficient to charge the defendant with any offense, the defendant must, if in custody, be released and any bail must be exonerated.

2.24(4) General principles.

a. Extensions. The time for filing motions for new trial or in arrest of judgment may be extended by the court for good cause.

b. Disposition. Upon a timely motion for a new trial or in arrest of judgment, the court shall defer the judgment and proceed to hear and decide the motions.

c. Appeal. Appeal from an order granting or denying a motion for new trial or in arrest of judgment may be taken by the state or the defendant. Where the court has denied the motion for new trial or in arrest of judgment, appeal may be had only after judgment is pronounced.

d. Custody pending appellate determination. Pending determination by the appellate court of such appeal, the trial court shall determine whether the defendant shall remain in custody or be released, with or without bail. Where the trial court has arrested judgment and an appeal is taken by the state, and it further appears to the trial court that there is no evidence sufficient to charge the defendant with an offense, the defendant shall not be held in custody.

2.24(5) Correction of sentence.

a. Time when correction of sentence may be made. The district court may correct an illegal sentence at any time on motion of a party or on its own motion. Before correcting anything other than a clerical error, the court shall give notice to the parties and afford them an opportunity to be heard.

Comment: Former rule 2.24(5)(a) said, "The court may correct an illegal sentence at any time." The revised rule recognizes that the rules of criminal procedure govern proceedings in the trial courts, not the appellate courts. However, the revised rule is not intended to affect existing law regarding the authority of appellate courts to correct illegal sentences.

b. Definition of illegal sentence. An illegal sentence is a sentence that could not have been lawfully imposed for the defendant's conviction or convictions. An illegal sentence includes a separate sentence for a conviction where that conviction merged into another conviction. Challenges to the defendant's underlying convictions or claims that the sentencing court abused its discretion in imposing a sentence within legal limits do not raise illegal sentencing issues.

c. Credit for time served. The defendant shall receive full credit for time spent in custody under the sentence prior to correction or reduction.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §69 to 73; Report 1978, effective July 1, 1979; amendment 1983; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.25 Reserved.

Comment: Former rule 2.25, relating to the bill of exceptions, has been eliminated. The bill of exceptions is hereby abolished. If a party needs a record to be made of a matter that occurred off the record, it shall be the responsibility of that party to initiate that process by reasonable and appropriate means.

[Report 1979; Court Order December 20, 1996; November 9, 2001, effective February 15, 2002; October 14, 2022, effective July 1, 2023]

Rule 2.26 Execution of judgment and stay thereof.

2.26(1) Execution of judgment.

a. Mittimus. When a judgment of confinement is pronounced, a certified copy of the entry of judgment shall be furnished to the sheriff, who shall execute it accordingly. Upon delivery of the defendant to the person in charge of the place where the defendant is to be confined, the sheriff shall make a return of execution, which shall be filed.

b. Upon discharge. When the court orders a defendant in custody released, the person in charge of the place of confinement shall file a notice of release with the clerk of court.

c. Execution for fine.

(1) Upon a judgment for a fine, an execution may be issued as upon a judgment in a civil case, and return thereof shall be made in like manner.

(2) Judgments for fines in all criminal actions rendered are liens upon the real estate of the defendant and shall be entered upon the lien index in the same manner and with like effect as judgments in civil actions.

d. Execution in other cases. When the judgment is for anything other than confinement or payment of money by the defendant, an execution consisting of a certified copy of the entry of such judgment, delivered to the sheriff of the proper county, shall authorize and require the sheriff to execute such judgment. The sheriff shall return and file the same, with the sheriff's actions thereon endorsed, with

the court in which the judgment was rendered, within the time specified by the court but not exceeding 70 days after the date of the certificate of such certified copy.

e. Available credit for time spent in custody before trial or sentencing. The defendant shall receive full credit for time spent in custody on account of the offense for which the defendant is convicted.

2.26(2) Stay of execution.

a. Confinement. A sentence of confinement shall be stayed if an appeal is taken and the defendant is released on bond as permitted by Iowa Code section 811.1. The court shall fix the terms of release upon the posting of the appeal bond.

b. Probation. A sentencing order that places the defendant on probation may be stayed if an appeal is taken and an appeal bond is posted. If the sentencing order is not stayed, probation shall commence at the time of sentencing. If the order is stayed, the court shall fix the terms of the stay.

c. Monetary payments. Upon the posting of an appeal bond, the court may stay the collection of fines and restitution, including victim restitution, Category “A” restitution, and Category “B” restitution.

d. Sex offender registry. A stay of execution does not affect a defendant’s requirement to comply with sex offender registration and notification.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §74; Report November 9, 2001, effective February 15, 2002; Court Orders October 14, 2022, November 7, 2022, effective July 1, 2023]

Rule 2.27 Presence of the defendant; regulation of conduct by the court.

2.27(1) Defendant’s appearance. The defendant is required to appear as follows:

a. Initial appearance, arraignment, and plea. The defendant must be present personally or by interactive audiovisual system at the initial appearance, arraignment, and plea unless a written waiver is filed as provided in rule 2.2(2)(c) or rule 2.8(1)(e).

b. Other pretrial court proceedings. The defendant must be present personally or by interactive audiovisual system at other pretrial court proceedings unless either (1) the proceeding is not a critical stage of the proceedings and the court waives the defendant’s appearance or (2) the defendant waives appearance with the approval of the court.

c. Depositions. With the consent of the prosecuting attorney, the defendant may waive presence at a deposition. The defendant’s attorney shall make a record of the waiver at the deposition. Otherwise, the defendant is required to be present subject to rule 2.13(5) and rule 2.13(6)(c).

d. Trial proceedings. The defendant must be personally present at every stage of the trial, including the impaneling of the jury and the return of the verdict.

e. Sentencing. Except as provided in rule 2.27(3)(c), the defendant must be personally present at the imposition of sentence. Sentencing may proceed by interactive audiovisual system with the consent of all parties.

f. Defendant in prison or incarcerated by another authority. When the defendant is in prison, or is in the custody of the federal government or another state, at the defendant’s request and with the agreement of the state the defendant may appear by interactive audiovisual system for any matter except the trial itself.

2.27(2) When the court may proceed in the defendant’s absence. In all cases, the progress of the trial or any other proceeding shall not be prevented whenever a defendant, initially present:

a. Is voluntarily absent after the trial or other proceeding has commenced.

b. Engages in conduct justifying exclusion from the courtroom.

2.27(3) Presence not required. A defendant need not be present in the following situations:

a. A corporation may appear by its attorney for all purposes.

b. The defendant’s presence is not required for a reduction of sentence or a correction of a clerical error in a sentence.

c. If the offense is a misdemeanor or nonforcible class “D” felony and the parties have entered into a written agreement as to sentence that requests the court to proceed to sentencing without the presence of the parties or making of a record, the court may enter judgment in accordance with the sentencing agreement.

2.27(4) Regulation of conduct in the courtroom.

a. When a defendant engages in conduct seriously disruptive of judicial proceedings, one or more of the following steps may be employed to ensure decorum in the courtroom:

(1) Citing the defendant for contempt.

(2) Removing the defendant from the courtroom until the defendant promises to behave properly.

(3) Restraining the defendant, while keeping the defendant present.

b. The court may direct that any person in the courtroom be searched for a weapon or other prohibited item, and any weapon or other prohibited item may be retained subject to order of the court.

Comment: In Iowa, because of limited resources, not all courthouses screen visitors. It is therefore often possible to enter a courtroom without having gone through a body scanner. Yet persons entering a courtroom should recognize they have a diminished expectation of privacy as to items that would ordinarily be detected in a regular screening. This rule recognizes that the courts may need to act preemptively to protect the security and integrity of criminal proceedings, particularly in enforcing a prohibition on weapons in the courtroom or on the improper use of electronic devices. In exercising this authority, courts should be mindful of the potential for unfair prejudice when such searches are conducted in the presence of the jury.

c. The court may have removed from the courtroom any person whose exclusion is necessary to preserve the integrity or order of the proceedings.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §75, 76; amendment 1984; Report April 20, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; Court Orders October 14, 2022, May 31, 2023, effective July 1, 2023]

Rule 2.28 Right to appointed counsel.

2.28(1) Representation. Every defendant, who is an indigent person as defined in Iowa Code section 815.9 and who faces the possibility of incarceration, is entitled to have counsel appointed to represent the defendant at every stage of the proceedings from the defendant's initial appearance before the court through appeal, including probation and parole revocation hearings as provided in section 815.10 and motions to correct illegal sentences unless the defendant waives such appointment.

2.28(2) Limited appearances. Limited appearances are not allowed in criminal cases where there is appointed counsel. However, appointed appellate counsel may file a limited appearance for the purpose of obtaining court records.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §77; 69GA, ch 117, §1242; 1983 Iowa Acts, ch 186, §10146; Report November 9, 2001, effective February 15, 2002; January 3, 2003, effective March 17, 2003; January 4, 2005, effective March 15, 2005; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.29 Withdrawal and duty of continuing representation.

2.29(1) Withdrawal of counsel.

a. Trial counsel may withdraw at any time after the dismissal of the indictment or acquittal of the defendant.

b. In general, if a judgment of conviction and sentence is entered, an appointed attorney may not withdraw without leave of the court.

(1) If the defendant does not wish to appeal, appointed counsel may withdraw at the expiration of the time for appeal from the judgment of conviction.

(2) If the defendant wishes to appeal, appointed counsel may not withdraw before filing with the district court a notice of appeal, an application for appointment of counsel, and an application for production of transcripts at state expense.

2.29(2) Appointment of counsel on appeal. An indigent defendant, as defined in Iowa Code section 815.9, convicted of an indictable offense or a simple misdemeanor where defendant faces the possibility of incarceration, is entitled to appointment of counsel on appeal or application for discretionary review to the supreme court. An indigent defendant is also entitled to appointment of counsel on application for certiorari to the supreme court if such defendant had a right to appointment of counsel in the proceeding from which certiorari review is sought.

a. Application for appointment of appellate counsel shall be made to the district court, which shall retain authority to act on the application after notice of appeal or application for discretionary review has been filed.

b. If the defendant has proceeded as an indigent in the trial court and a financial statement already has been filed pursuant to Iowa Code section 815.9, the defendant, upon making application for appointment of appellate counsel, shall be presumed to be indigent, and an additional financial statement shall not be required unless evidence is offered that the defendant is not indigent.

c. The defendant and appointed appellate counsel are under a continuing obligation to inform the trial court of any change in circumstances that would make the defendant ineligible to qualify as indigent.

2.29(3) If the trial court finds the defendant is ineligible for appointment of appellate counsel, it shall include in the record a statement of the reasons why counsel was not appointed. The defendant may apply to the supreme court for review of a trial court order denying the defendant appointed

counsel. Such application must be filed with the supreme court within 10 days of the filing of the trial court order denying the defendant's request for appointed counsel.

2.29(4) Unless appellate counsel is immediately appointed, trial counsel shall determine whether the defendant wants to appeal and shall take steps to effect the appeal pursuant to rule 2.29(1)(b)(2).

2.29(5) Withdrawals allowed under this rule pertain only to the district court proceedings, and counsel of record in the district court will be deemed to be counsel in the appellate court in accordance with the provisions of Iowa Rule of Appellate Procedure 6.109(4) in the event of an appeal unless other counsel is retained or appointed and notice is given to the parties and the clerk of the supreme court. If trial counsel was not court appointed, trial counsel may withdraw from the appellate proceedings pursuant to Iowa Rule of Appellate Procedure 6.109(5).

[Report 1980; 1983 Iowa Acts, ch 186, §10147; Report October 27, 1999, effective January 3, 2000; November 9, 2001, effective February 15, 2002; November 18, 2016, effective March 1, 2017; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.30 Reserved.

Comment: Former rules 2.29 and 2.30 have been combined in new rule 2.29.

[Report 1980; November 9, 2001, effective February 15, 2002; November 18, 2016, effective March 1, 2017; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.31 Compensation of appointed appellate counsel. Appointed appellate counsel's compensation shall be determined by the district court pursuant to the provisions of Iowa Code section 815.7.

[Report 1980; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.32 Forms — Appointment of Counsel**Rule 2.32 — Form 1: *Financial Affidavit and Application for Appointment of Counsel.***

In the Iowa District Court for _____ County

State of Iowa or _____,)	No. _____
Plaintiff/Petitioner,)	
)	Financial Affidavit and Application for
vs.)	Appointment of Counsel
_____)	
Defendant/Respondent.)	

In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____
Street/P.O. Box Apt # City State ZipPending charges: _____ In jail? ☐ Yes ☐ NoDo you have a job? ☐ No job ☐ Yes, full time ☐ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ☐ hour ☐ month ☐ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ☐ hour ☐ month ☐ year

List all other money you, and anyone else living in your household, has coming in: _____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than \$100: _____

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____

I understand I may be required to repay the state for all or part of my attorney fees and costs, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.

Date _____

Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; April 11, 2008, effective July 1, 2008; June 26, 2008, effective September 1, 2008; November 8, 2012, effective January 7, 2013]

Rule 2.32 — Form 1A: *Order for Appointment of Counsel.*

In the Iowa District Court for _____ County		
State of Iowa or _____, Plaintiff/Petitioner, vs. _____, Defendant/Respondent.))))))	No. _____ Order for Appointment of Counsel

Now on this _____ day of _____, 20____, the court having received and examined Defendant's Financial Affidavit and Application for Appointment of Counsel and having considered not only Defendant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. Defendant:

- ☐ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
 - ☐ Defendant's income is **at or below 125%** of the poverty guidelines and Defendant is unable to pay for the cost of an attorney; **or**
 - ☐ Defendant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Defendant substantial financial hardship; **or**
 - ☐ Defendant's Income is **over 200%** of the poverty guidelines, Defendant is charged with a felony, and not appointing counsel would cause Defendant substantial financial hardship.
- ☐ Is not eligible for court-appointed counsel pursuant to Iowa Code section 815.9.

2. Counsel appointed below to represent Defendant is:

- ☐ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
- ☐ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
 - ☐ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
 - ☐ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
 - ☐ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

It is therefore ordered that Defendant's Application for Appointment of Counsel is

- ☐ Denied.
- ☐ Approved, and that _____ is appointed to represent Defendant in this case at State expense and may be contacted at _____.

Judge, _____ Judicial District

Copy to:

*Note: In a parole revocation proceeding, the appointment order must include additional specific findings. See Iowa Code § 908.2A(1)(c); Iowa Administrative Code 493—12.2(1)"b"(2). Do not use this form for parole revocation appointments.

[Report November 8, 2012, effective January 7, 2013]

Rule 2.32 — Form 2: *Financial Affidavit of Parent and Application for Appointment of Counsel for ☐ Child ☐ Parent ☐ Other.*

In the Iowa District Court for _____ County (Juvenile Division)

In the Interest of)	Juvenile No.	_____
_____)		
_____)	Financial Affidavit of Parent and Application	
_____)	for Appointment of Counsel for	
_____)	<input type="checkbox"/> Child <input type="checkbox"/> Parent <input type="checkbox"/> Other:	_____
Child(ren).)		

In support of my application for appointment of counsel, and under penalty of perjury, the undersigned states:

Name: _____ Date of birth: _____

Home phone: _____ Cell phone: _____ Email: _____

Street address: _____

Street/P.O. Box	Apt #	City	State	Zip
-----------------	-------	------	-------	-----

Case: ☐ CINA ☐ TPR ☐ Del ☐ Other: _____ Relationship to Child(ren): ☐ Parent ☐ Other: _____

Do you have a job? ☐ No job ☐ Yes, full time ☐ Yes, part time (list hours per week: _____)

Who do you work for? _____

How much money do you currently make, before taxes or deductions? _____ per ☐ hour ☐ month ☐ year

How much money have you made in the last 12 months from any source, before taxes or deductions? _____

How many family members are supported by or live with you? _____

If a spouse lives with you, how much money does your spouse make? _____ per ☐ hour ☐ month ☐ year

List all other money you, and anyone else living in your household, has coming in: _____

List what you own, including money in banks, cars, trucks, other vehicles, land, houses, buildings, cash, or anything else worth more than \$100:

List amounts you pay monthly for mortgages, rent, car loans, credit cards, child support, and any other debts: _____

I understand I may be required to repay the state for my attorney fees and costs and those of my child, I may be required to sign a wage assignment, and I must report any changes in the information submitted on this financial affidavit. I promise under penalty of perjury that the statements I make in this application are true, and that I am unable to pay for an attorney to represent me.

Date _____

Signature _____

[Report February 21, 1985, effective July 1, 1985; November 9, 2001, effective February 15, 2002; April 11, 2008, effective July 1, 2008; June 26, 2008, effective September 1, 2008; November 8, 2012, effective January 7, 2013]

Rule 2.32 — Form 2A: Order for Appointment of Counsel for ☐ Child ☐ Parent ☐ Other.

In the Iowa District Court for _____ County (Juvenile Division)	
In the Interest of _____, _____, _____, _____, Child(ren).))))))
	Juvenile No. _____ Order for Appointment of Counsel for <input type="checkbox"/> Child <input type="checkbox"/> Parent <input type="checkbox"/> Other: _____

Now on this _____ day of _____, 20____, the Court having received and examined the Financial Affidavit of Parent and Application for Appointment of Counsel and having considered not only the Child/Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. Child/Applicant:

- ☐ Is eligible* for court-appointed counsel pursuant to Iowa Code section 815.9 because:
 - ☐ Child/Applicant's income is **at or below 125%** of the poverty guidelines and Child/Applicant is unable to pay for the cost of an attorney; **or**
 - ☐ Child/Applicant's income is **between 125% and 200%** of the poverty guidelines and not appointing counsel would cause Child/Applicant substantial financial hardship; **or**
 - ☐ Child/Applicant's Income is **over 200%** of the poverty guidelines, case is a felony-level delinquency, and not appointing counsel would cause Child/Applicant substantial financial hardship.
- ☐ Is a child and is otherwise eligible for court-appointed counsel under Iowa Code chapter 232.
- ☐ Is not eligible for court-appointed counsel.

2. Counsel/guardian ad litem appointed below to represent the Child/Applicant is:

- ☐ The local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in this county; **or**
- ☐ An attorney not designated by the State Public Defender, **and** any local public defender office or other designee of the State Public Defender for this type of case in this county has been contacted and has declined the appointment or withdrawn from the case, or there is no designation for this type of case in this county, **and** the appointed attorney:
 - ☐ Has a current contract with the State Public Defender to represent indigent persons in this type of case and in this county; **or**
 - ☐ Does not have such a contract, but all attorneys with a contract to represent indigent persons in this type of case in this county have been contacted and no such attorney is available to take this case; **or**
 - ☐ Does not have such a contract, but the State Public Defender has been consulted and consents to the appointment.

It is therefore ordered that Child/Applicant's Application for Appointment of Counsel is

- ☐ Denied.
- ☐ Approved, and that _____ is appointed to serve as counsel/guardian ad litem in this case for _____ at state expense and may be contacted at _____.

Judge, _____ Judicial District

Copy to:

*Note: A different standard applies for determining eligibility for appointment of respondent's counsel in a Chapter 600A TPR, and additional findings are required to determine the appropriate party/agency responsible for payment. See Iowa Code §§ 600A.2(11), 600A.6A(2), and 600A.6B. Do not use this form order for 600A TPR Appointments.

[Report November 8, 2012, effective January 7, 2013]

Rule 2.33 Dismissal of prosecutions; right to speedy trial.

2.33(1) *Dismissal generally; effect.* The court, upon its own motion or the application of the prosecuting attorney, in the furtherance of justice, may order the dismissal of any pending criminal prosecution, the reasons therefor being stated in the order and entered of record, and no such prosecution shall be discontinued or abandoned in any other manner. Such a dismissal is a bar to another prosecution for the same offense if it is a simple or serious misdemeanor; but it is not a bar if the offense charged be a felony or an aggravated misdemeanor.

2.33(2) *Speedy trial.* It is the public policy of the state of Iowa that criminal prosecutions be concluded at the earliest possible time consistent with a fair trial to both parties. Applications for dismissals under this rule may be made by the prosecuting attorney or the defendant or by the court on its own motion.

a. When an adult is arrested for the commission of an offense, or, in the case of a minor, when the juvenile court enters an order waiving jurisdiction pursuant to Iowa Code section 232.45, and an indictment is not found against the defendant within 45 days, the court must order the prosecution be dismissed unless good cause to the contrary is shown. For purposes of this rule, the 45-day period commences for an adult only after the defendant has been taken before a magistrate for an initial appearance or a waiver of the initial appearance is filed.

b. The defendant must be brought to trial within 90 days after indictment is found or the court must order the indictment be dismissed unless good cause to the contrary is shown.

c. All criminal cases must be brought to trial within one year after the defendant's initial arraignment pursuant to rule 2.8 unless an extension is granted by the court, upon a showing of good cause.

d. The defendant personally or through the defendant's attorney may waive the deadlines in (a) and (b) above by filing a written waiver that substantially complies with rule 2.37—Form 10: *Waiver of Speedy Trial (90 Day)*. A waiver of speedy trial operates to waive both deadlines. The deadline in (c) may be waived only by the defendant personally and on the record or by the filing of a written waiver that substantially complies with rule 2.37—Form 11: *Waiver of Speedy Trial (One Year)*.

e. If the court directs the prosecution be dismissed, the defendant, if in custody, must be discharged, or the defendant's bail, if any, exonerated.

2.33(3) *Change of venue after jury selection commenced.* Whenever a change of venue is granted pursuant to Iowa Code section 803.2(2), the defendant may be brought to trial within 90 days of the grant of the change of venue, notwithstanding rule 2.33(2)(b).

[66GA, ch 1245(2), §1301; amendment 1979; amendment 1980; amendment 1982; 82 Acts, ch 1021, §5, effective July 1, 1983; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.34 Reserved.

Comment: The substance of former rule 2.34 has been moved to rule 2.11.

[66GA, ch 1245(2), §1301; Report November 9, 2001, effective February 15, 2002; June 29, 2009, effective August 28, 2009; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.35 Reserved.

Comment: Former rule 2.35 has been removed as unnecessary.

[66GA, ch 1245(2), §1301; 67GA, ch 153, §78; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.36 Forms for search and arrest warrants.**Rule 2.36 — Form 1: *Search Warrant*.**

A search warrant shall be in substantially the following form:

IN THE IOWA DISTRICT COURT FOR _____ COUNTY	
State of Iowa, <div style="text-align: center;">vs.</div> _____ (Defendant).	Before (Judge, Magistrate) _____ Criminal Case No. _____ <div style="text-align: center;">SEARCH WARRANT</div>

TO ANY PEACE OFFICER OF THIS STATE:

Proof has been made before me, as provided by law, on this day that (describe property) is being kept at (describe location/address) in the possession of _____, and has been or is being held in violation of the laws of this state.

You are commanded to make immediate search of (state here whether the search is of a person (named), premises, or a designated thing).

If the property or any portion of the property is found, you are commanded to bring the property before me at my office.

Dated at _____, Iowa, this _____ day of _____, 20 _____.

(Signature)	(Official title)
-------------	------------------

Rule 2.36 — Form 2: *Application for Search Warrant.*

An application for a search warrant shall be in substantially the following form:

An application for a search warrant shall be in substantially the following form:

Case No. _____

STATE OF IOWA, COUNTY OF _____

APPLICATION FOR SEARCH WARRANT

Being duly sworn, I, the undersigned, say that at the place (and on the person(s) and in the vehicle(s)) described as follows:

in _____ County, there is now certain property, namely:

which is:

- _____ Property that has been obtained in violation of law.
- _____ Property, the possession of which is illegal.
- _____ Property used or possessed with the intent to be used as the means of committing a public offense or concealed to prevent an offense from being discovered.
- _____ Property relevant and material as evidence in a criminal prosecution.

The facts establishing the foregoing ground(s) for issuance of a search warrant are as set forth in the attachment(s) made part of this application.

Applicant

Subscribed and sworn to before me this _____ day of _____, 20 _____.

Judge or Magistrate

Judicial District,

County, Iowa

WHEREFORE, the undersigned asks that a search warrant be issued.

County Attorney

By _____

Assistant County Attorney

Application for Search Warrant (*cont'd*)

Case No. _____

ATTACHMENT A

Applicant's name: _____
 Occupation: _____ No. of years: _____
 Assignment: _____ No. of years: _____

Your applicant conducted an investigation and received information from other officers and other sources as follows:
 (_____ See attached investigative and police reports.)

Case No. _____

INFORMANT'S ATTACHMENT

(Note: Prepare separate attachment for each informant.)

Peace officer _____ received information from an informant whose name is:

-
- ____ Confidential because disclosure of informant's identity would:
 ____ Endanger informant's safety;
 ____ Impair informant's future usefulness to law enforcement.

The informant is reliable for the following reason(s):

- ____ The informant is a concerned citizen who has been known by the above peace officer for _____ years and who:
 ____ Is a mature individual.
 ____ Is regularly employed.
 ____ Is a student in good standing.
 ____ Is a well-respected family or business person.
 ____ Is a person of truthful reputation.
 ____ Has no motivation to falsify the information.
 ____ Has no known association with known criminals.
 ____ Has no known criminal record.
 ____ Has otherwise demonstrated truthfulness. (State in the narrative the facts that led to this conclusion.)
 ____ Other: _____

- ____ The informant has supplied information in the past _____ times.
 ____ The informant's past information has helped supply the basis for _____ search warrants.
 ____ The informant's past information has led to the making of _____ arrests.
 ____ Past information from the informant has led to the filing of the following charges:

 ____ Past information from the informant has led to the discovery and seizure of stolen property, drugs, or other contraband.
 ____ The informant has not given false information in the past.
 ____ The information supplied by the informant in this investigation has been corroborated by law enforcement personnel. (Indicate in the narrative the corroborated information and how it was corroborated.)
 ____ Other: _____

The informant has provided the following information:

Rule 2.36 — Form 3: *Endorsement on Search Warrant Application.*

An endorsement on a search warrant shall be in substantially the following form:

Case No. _____

ENDORSEMENT ON SEARCH WARRANT APPLICATION

1. In issuing the search warrant, the undersigned relied upon the sworn testimony of the following person(s) together with the statements and information contained in the application and any attachments thereto. The court relied upon the following witnesses:

Name

Address

_____	_____
_____	_____
_____	_____

2. Abstract of Testimony. (As set forth in the application and the attachments thereto, plus the following information.)

3. The undersigned has relied, at least in part, on information supplied by a confidential informant (who need not be named) to the peace officer(s) shown on Attachment(s)

_____.

4. The information appears credible because (select):
_____ A. Sworn testimony indicates this informant has given reliable information on previous occasions; or,
_____ B. Sworn testimony indicates that either the informant appears credible or the information appears credible for the following reasons (**if credibility is based on this ground, the magistrate MUST set out reasons here**):

5. The information (is/is not) found to justify probable cause.

6. I therefore (do/do not) issue the warrant.

Judge or Magistrate

Rule 2.36 — Form 4: *Return of Service.*

The form of a return of search warrant shall be substantially as follows:

RETURN OF SERVICE	
State of Iowa _____ County	}
	ss:
I, _____, being a peace officer in and for _____ _____ County, state of Iowa, certify that the attached search warrant came into my hands on the _____ day of _____, 20_____, and on the _____ day of _____, 20_____, I executed the warrant by making a search of the described person, premises, or thing and found the following property: (state kind and quantity) _____ _____ _____	
which property I seized by virtue of the attached warrant and which I now hold subject to further order of the court. I have further executed the attached warrant by giving a copy of the warrant, together with a receipt for the property taken to _____, or; No person having been found on the premises, I have left a copy of the inventory and a receipt for the property taken at the place where the property taken was found. I, the officer by whom the attached warrant was executed, do certify that the above inventory contains a true and de- tailed account of the property taken by me on the warrant, and is accurate to the best of my knowledge. Fees _____ Services _____ Mileage _____ Cartage _____	

Peace Officer

Subscribed and sworn to before me this _____ day of _____, 20_____.

Judge, Magistrate, Clerk, or Deputy
Clerk of the District Court, or
Notary Public

[66 GA, ch 1245(2), §1301; 1984 Iowa Acts, ch 1324, §1; Report February 13, 1986, effective July 1, 1986; August 1, 1997; Report November 20, 1997, effective January 21, 1998; November 9, 2001, effective February 15, 2002]

Rule 2.36 — Form 5: *Arrest Warrant on a Complaint.***FORM 5
ARREST WARRANT ON A COMPLAINT**

State of Iowa

County of _____

Criminal Case No. _____

To any peace officer of the state:

Complaint upon oath or affirmation having been this day filed with me, charging that the crime (naming it) has been committed and accusing A _____ B _____ thereof:

You are commanded forthwith to arrest the said A _____ B _____ and bring such person before me at (naming the place), or, in case of my absence or inability to act, before the nearest or most accessible magistrate in this county, without unnecessary delay.

Dated at _____ this _____ day of _____, 20 _____.

C _____ D _____
(with official title)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §93; Report November 9, 2001, effective February 15, 2002]

Rule 2.36 — Form 6: *Arrest Warrant After Indictment or Information.***FORM 6
ARREST WARRANT AFTER INDICTMENT OR INFORMATION**

State of Iowa

County of _____

Criminal Case No. _____

To any peace officer of the state:

An indictment (information) having been filed in the district court of said county on the _____ day of _____, 20_____, (the day on which the indictment (information) is filed) charging A. B. with the crime of (here designate the offense by the number of the statutory provision and name of the offense if it have one, or by a brief general description of it, substantially as in the indictment).

You are hereby commanded to arrest the said A. B. and bring such person before said court to answer said indictment.

Signed this _____ day of _____, 20 _____

(Seal)

Clerk or Judge

By order of the judge of the court.

There may be added to the above, "Let the defendant be admitted to bail in the amount of _____ dollars (or subject to other conditions endorsed on the warrant)."

If the offense be a misdemeanor, the warrant may be in a similar form, adding to the body thereof a direction substantially to the following effect: "Or, if the said A. B. require it, that you take such person before a magistrate or the clerk of the district court in said county, or in the county in which you arrest such person, that such person may give bail to answer the said indictment," and the clerk may make an endorsement thereon to the following effect: "The defendant is to be admitted to bail in the sum of _____ dollars" (the amount fixed by the judge).

[66GA, ch 1245(2), §1301; 67GA, ch 153, §94; Report November 9, 2001, effective February 15, 2002]

Rule 2.36 — Form 7: *Arrest Warrant When Defendant Fails to Appear for Sentencing.*

FORM 7

ARREST WARRANT WHEN DEFENDANT FAILS TO APPEAR FOR SENTENCING

State of Iowa

County of _____

Criminal Case No. _____

To any peace officer in the state:

A _____ B _____, having been duly convicted on the _____ day of _____, 20 _____, in the district court of _____ County, of the crime of (here state the name of the offense and the statutory provision).

You are hereby commanded to arrest the said A _____ B _____ and bring such person before said court for judgment.

Signed this _____ day of _____, 20 _____

Clerk or Judge

[66GA, ch 1245(2), §1301; 67GA, ch 153, §95; Report November 9, 2001, effective February 15, 2002]

Rule 2.37 Forms other than warrants. The following forms are illustrative and not mandatory, but any particular instrument shall substantially comply with the form illustrated.
[66GA, ch 1245(2), §1301; 1984 Iowa Acts, ch 1324, §2; Report November 9, 2001, effective February 15, 2002]

Rule 2.37 — Form 1: *Bail Bond.*

FORM 1
BAIL BOND

State of Iowa
County of _____
Criminal Case No. _____

An indictment (or charge) having been found (or made) in the district court (or other appropriate court) of the county of _____ on the _____ day of _____, charging A _____ B _____ with the crime of _____, (designating it as in the warrant, indictment, or complaint), and such person having been duly admitted to bail in the sum of _____ dollars:

We, A _____ B _____ and E _____ F _____, hereby undertake that the said A _____ B _____ shall appear at the _____ court of the county of _____, on the _____ day of _____, 20 _____, and answer the said indictment (or charge), and submit to the orders and judgment of said court, and not depart without leave of same, or, if such person fail to perform either of these conditions, that such person will pay to the State of Iowa the sum of _____ (inserting the sum in which the defendant is admitted to bail).

A _____ B _____

E _____ F _____

Acknowledged before and accepted by me at _____, in the township of _____ in the county of _____ this _____ day of _____, 20 _____

G _____ H _____
(with official title)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §96; Report November 9, 2001, effective February 15, 2002]

Rule 2.37 — Form 2: *Order for Discharge of Defendant Upon Bail.***FORM 2
ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL**

State of Iowa

County of _____

Criminal Case No. _____

To the sheriff of the County of _____:

C _____ D _____, who is detained by you on commitment (or indictment or conviction, as the case may be) for the offense of (here designate it generally), having given sufficient bail to answer the same, you are commanded forthwith to discharge such person from custody.

Dated at _____, in the township (town or city) of _____, in the County of _____, this _____ day of _____, 20 ____.

K _____ L _____
(with official title)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §97; Report November 9, 2001, effective February 15, 2002]

Rule 2.37 — Form 3: *Order for Discharge of Defendant Upon Bail: Another Form.*

FORM 3
ORDER FOR DISCHARGE OF DEFENDANT UPON BAIL: ANOTHER FORM
 (For endorsement on warrant or order of commitment)

State of Iowa

County of _____

Criminal Case No. _____

To the officer (naming the officer and the officer's title, thus A _____ B _____, Sheriff of _____ County) having in custody C _____ D _____ (name):

The defendant named in the within warrant of arrest (or order of commitment) now in your custody under the authority thereof for the offense therein designated, having given sufficient bail to answer the same by the undertaking herewith delivered to you, you are commanded forthwith to discharge such person from custody, and, without unnecessary delay, deliver this order, together with the said undertaking of bail, to _____ (name and address of the appropriate district court clerk, or the court or magistrate who issued the warrant).

Dated at _____ this _____ day of _____, 20 ____.

E _____ F _____
 (with official title)

[66GA, ch 1245(2), §1301; 67GA, ch 153, §98; Report November 9, 2001, effective February 15, 2002]

Rule 2.37 — Form 4: Trial Information.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

THE STATE OF IOWA,

vs.

Defendant.

TRIAL INFORMATION

No. _____

COMES NOW, _____, as Prosecuting Attorney of _____ County, Iowa, and in the name and by the authority of the State of Iowa accuses _____ of the crime of _____ committed as follows: The said _____ on or about the _____ day of _____, 20 _____, in the County of _____ and State of Iowa did unlawfully and willfully

in violation of Iowa Code section(s) _____ (_____)
 insert year

A TRUE INFORMATION

Prosecuting Attorney

Trial Information (*cont'd*)

On _____ I find that the evidence contained in the within Trial Information and minutes of evidence, if unexplained, would _____ warrant a conviction by the trial jury, and being satisfied from the showing made herein that this case should _____ be prosecuted by Trial Information the same is _____ approved.

Defendant is released on:

1. personal recognizance _____
2. appearance bond \$ _____
 - a. unsecured _____
 - b. secured _____
3. other (specify) _____

JUDGE OF THE _____ JUDICIAL
DISTRICT OF THE STATE OF IOWA

(Court file stamp)

This Trial Information, together with the minutes of evidence relating thereto, is duly filed in the District Court of Iowa for _____ County this _____ day of _____, 20 ____.

CLERK OF THE DISTRICT COURT OF IOWA
FOR _____ COUNTY

Names of Witnesses

By: _____
Deputy Clerk

[66GA, ch 1245(2), §1301; 67GA, ch 153, §99; Report 1978, effective July 1, 1979; amendment 1979; November 9, 2001, effective February 15, 2002]

Rule 2.37 — Form 5: General Indictment Form.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

STATE OF IOWA,

vs.

A _____ B _____.

Criminal Case No. _____

INDICTMENT

The grand jurors of the county of _____ accuse A _____ B _____ of (here state the offense and whether felony or misdemeanor) in violation of (here state by number the statutory section violated) and charge that the said A _____ B _____ on or about the _____ day of _____, _____, in the county of _____ and State of Iowa, (here briefly insert any particulars of the offense, such as the name of the victim in a criminal homicide case).

A true bill.

/s/ _____
Foreman or forewoman of grand jury

Names of witnesses:

[66GA, ch 1245(2), §1301; 67GA, ch 153, §100; Report November 9, 2001, effective February 15, 2002]

Rule 2.37 — Form 6: *Written Arraignment and Plea of Not Guilty.***Rule 2.37—Form 6: *Written Arraignment and Plea of Not Guilty*****In the Iowa District Court for _____ County***County where you are filing this Written Arraignment***State of Iowa**

vs.

Defendant

Case no. _____

**Written Arraignment and Plea of Not
Guilty**Defendant acknowledges the following: *Read, complete, and check each item if you agree.*

1. ☐ Defendant is represented by the undersigned attorney.
2. ☐ Defendant's current mailing address is:

*Mailing address**City**State**ZIP code*

3. ☐ Defendant can read, write, and understand the English language and has completed the following level of education:

4. ☐ Defendant has been advised by the undersigned attorney and understands that Defendant has a right to arraignment in open court, and Defendant hereby voluntarily waives that right, choosing instead to file this written arraignment and plea of not guilty. Defendant understands that times for further proceedings that are computed from the date of arraignment will be computed from the date of filing this written arraignment and plea of not guilty.

5. ☐ Defendant has received a copy of the indictment/trial information, which charges Defendant with the crime(s) of: _____

in violation of Iowa Code section(s) _____ (____).
Year

Defendant has read the indictment/trial information and is familiar with its contents.



Rule 2.37—Form 6: Written Arraignment and Plea of Not Guilty, continued

6. The name charged in Defendant's indictment/trial information is:*Check one.*

- A. ☐ Defendant's true and correct name and Defendant has been advised and understands that Defendant is now precluded from objecting to the indictment/trial information upon the ground that Defendant is improperly named.
- B. ☐ Not Defendant's true and correct name. Defendant's true and correct name is:

First

Middle

Last

Defendant requests that an entry be made in the minutes showing Defendant's true and correct name. Defendant has been advised and understands that further proceedings will be had against Defendant by the name provided in this response, the indictment/trial information will be amended accordingly, and when the indictment/trial information is so amended, Defendant will be precluded from objecting upon the ground that Defendant is improperly named.

7. ☐ Defendant has been advised and understands that Defendant may plead guilty, not guilty, or former conviction or acquittal.
8. ☐ For the purpose of this arraignment, Defendant has had sufficient time to discuss the case with the undersigned attorney, and Defendant waives any further time in which to enter a plea.
9. ☐ Defendant pleads **not guilty** to the charge(s) identified in paragraph 5.
10. ☐ Defendant has been advised and understands that Defendant has a right under Iowa Rule of Criminal Procedure 2.33(2)(b) to a trial within 90 days after indictment/filing of the trial information and:

Check one.

- A. ☐ Defendant demands a speedy trial pursuant to Iowa Rule of Criminal Procedure 2.33(2)(b).
- B. ☐ Defendant waives Defendant's right to a speedy trial pursuant to Iowa Rule of Criminal Procedure 2.33(2)(b).
11. ☐ Defendant requests that a trial date be promptly set pursuant to Iowa Rule of Criminal Procedure 2.9. Defendant and the undersigned attorney will be available for trial on the following days: _____



Rule 2.37—Form 6: Written Arraignment and Plea of Not Guilty, continued

Attorney's signature

_____, 20____
Month Day Year Signature of attorney for Defendant

Name of law firm, if applicable

Mailing address

_____, _____
City State ZIP code

(_____) _____
Phone number

Email address

Additional email address, if applicable

[Report 1982; November 9, 2001, effective February 15, 2002; Court Order March 31, 2020, temporarily effective March 31, 2020, permanently effective May 30, 2020; October 14, 2022, effective July 1, 2023]

Rule 2.37 — Form 7: *Application for Postconviction Relief Form.*

IN THE IOWA DISTRICT COURT FOR _____ COUNTY	
_____, Applicant, vs. STATE OF IOWA, Respondent.	Law No. CL _____ APPLICATION FOR POSTCONVICTION RELIEF PURSUANT TO IOWA CODE CHAPTER 822

I.

Conviction or sentence concerning which postconviction relief is demanded:

A. Crime and statute applicant was convicted of violating:

B. Criminal Case No. _____

C. District court and judge that entered judgment of conviction or sentence:

D. Date of entry of judgment of conviction or sentence:

E. Sentence: _____

F. Place of confinement: _____

G. Plea:

_____ Guilty

_____ Not Guilty

H. Trial:

_____ Jury

_____ Judge only

II.

Prior proceedings:

A. Conviction or sentence was _____ appealed

1. to _____ court

2. Grounds raised: _____

3. Result: _____

4. Date of result: _____

B. Other petitions, applications or motions relating to this conviction or sentence in any court, state or federal:

1. Name of court: _____

2. Nature of proceedings: _____

3. Grounds raised: _____

4. Result: _____

5. Date of result: _____

Application for Postconviction Relief Form (*cont'd*)

III.

Grounds upon which application is based (grounds checked must be fully explained in space below):

A. _____ The conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this state.

B. _____ The court was without jurisdiction to impose sentence.

C. _____ The sentence exceeds the maximum authorized by law.

D. _____ There exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice.

E. _____ (1) Applicant's sentence has expired.

_____ (2) Applicant's probation, parole, or conditional release has been unlawfully revoked.

_____ (3) Applicant is otherwise unlawfully held in custody or other restraint.

F. _____ The conviction or sentence is otherwise subject to collateral attack upon ground(s) of alleged error formerly available under any common law, statutory, or other writ, motion, proceeding, or remedy.

Specific explanation of grounds and allegation of facts:

IV.

Facts supporting application within personal knowledge of applicant:

V.

The following documents, exhibits, affidavits, records, or other evidence supporting this application are attached to the application (list):

VI.

The following documents, exhibits, affidavits, records, or other evidence supporting this application are not attached to the application (list):

Application for Postconviction Relief Form (*cont'd*)

These items are not attached for the following reason(s):

VII.

Relief desired (state clearly)

VIII.

I, the undersigned applicant, am _____ able to pay court costs and expenses of representation and do _____ desire to have counsel appointed to represent me concerning this application. (If applicant indicates inability to pay court costs and expenses of representation and does desire to have counsel appointed, applicant shall attach a financial statement to this application. See Iowa Code §§815.9 and 815.10.)

Oath and Signature

I, _____, have read this Application, and I certify under penalty
Print your full name: first, middle, last
 of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this
 Application is true and correct.

_____ <i>Applicant's Signature*</i>	_____ <i>Month</i>	_____ <i>Day</i>	20_____ <i>Year</i>
_____ <i>Mailing address</i>	_____ <i>City</i>	_____ <i>State</i>	_____ <i>ZIP code</i>
(_____) _____ <i>Phone number</i>	_____ <i>Email address</i>	_____ <i>Additional email address, if applicable</i>	

**Whether filing electronically or in paper, you must handwrite your signature on this form. If you are filing electronically, scan the form after signing it and then file electronically.*

DIRECTIONS TO CLERK OF COURT

The clerk of court shall docket this application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general. See Iowa Code §822.3.

[Report 1980; November 9, 2001, effective February 15, 2002; Court Order March 31, 2020, temporarily effective March 31, 2020, permanently effective May 30, 2020]

Rule 2.37 — Form 8: Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense**Rule 2.37—Form 8: Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense**

In the Iowa District Court for _____ County

County where you are filing this Waiver

State of Iowa

vs.

Defendant

Case no. _____

Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense

If you need assistance to participate in court due to a disability, call the disability coordinator (information at <https://www.iowacourts.gov/for-the-public/ada>). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

1. Initial AppearanceI acknowledge the following: *Read, complete, and check each item if you agree.*

- ☐ I understand that a preliminary complaint has been filed in my name charging me with a crime.
- ☐ I understand that I am required to appear before the court at a date and time specified for an initial appearance.
- ☐ I understand that at my initial appearance, the court would advise me of the following:
 - ☐ The allegations of the complaint and provide me with a copy of the complaint.
 - ☐ My right to retain counsel or have counsel appointed for me if I am determined to be unable to afford an attorney according to certain guidelines the court must follow.
 - ☐ My right to obtain a review of my bond conditions and how I may secure pretrial release from custody.
 - ☐ That I am not required to make any statements, but that if I do make statements, they may be used against me.
 - ☐ My right to a preliminary hearing as provided by Iowa Rule of Criminal Procedure 2.2(4).
- ☐ I understand that it is my right to have an initial appearance and that I can either enforce that right or waive it (give it up).
- ☐ I hereby waive (give up) my right to appear for an initial appearance and ask that the court set the next appropriate court dates.
- ☐ This waiver is knowingly, voluntarily, and intelligently made with a full understanding of its meaning.



Rule 2.37—Form 8: Pro Se Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense, continued

2. Preliminary Hearing

Read, complete, and check each item if you agree.

- ☐ I understand that I am required to appear before the court at a date and time specified for a preliminary hearing.
- ☐ I understand that at the preliminary hearing, the following would occur:
 - ☐ The prosecution would present evidence.
 - ☐ I would have a right to cross-examine witnesses and introduce evidence on my own behalf.
 - ☐ The court would determine if there was probable cause to believe that an offense had been committed and that I committed it.
- ☐ I understand that it is my right to have a preliminary hearing and that I can either enforce that right or waive it (give it up).
- ☐ I hereby waive (give up) my right to appear for a preliminary hearing and ask the court set the next appropriate court dates.
- ☐ This waiver is knowingly, voluntarily, and intelligently made with a full understanding of its meaning.

3. Signature

_____, 20____
Month Day Year Defendant's signature*

Mailing address

_____, _____, _____
City State ZIP code

(_____) _____
Phone number Email address

**This form may be signed either by using a digitized signature, see instructions at <https://www.iowacourts.gov/for-the-public/court-forms/>, or by printing and hand-signing.*

[Court Order October 14, 2022, effective July 1, 2023]

Rule 2.37 — Form 9: Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense**Rule 2.37—Form 9: Attorney Waiver of Initial Appearance and Preliminary Hearing for Indictable Offense**

In the Iowa District Court for _____ County

*County where you are filing this Waiver***State of Iowa**

vs.

Defendant

Case no. _____

**Attorney Waiver of Initial Appearance
and Preliminary Hearing for Indictable
Offense**

Defendant's name as charged is Defendant's true and correct name.

Undersigned counsel has spoken with Defendant, _____, regarding
*Defendant's name*the waiver of Defendant's right to an initial appearance and preliminary hearing, and
Defendant has authorized the undersigned attorney to waive Defendant's right to the
initial appearance scheduled for _____, 20____.
Month Day Year

Furthermore, Defendant:

Check one.

- ☐ Demands a preliminary hearing.
- ☐ Waives the right to a preliminary hearing.

Attorney's signature_____, 20____
*Month Day Year Signature of attorney for defendant**Name of law firm, if applicable**Mailing address*_____, _____, _____
City State ZIP code(_____) _____
*Phone number**Email address**Additional email address, if applicable*

[Court Order October 14, 2022, effective July 1, 2023]

Rule 2.37 — Form 10: Waiver of Speedy Trial (90 Day)**Rule 2.37—Form 10: Waiver of Speedy Trial (90 Day)**

In the Iowa District Court for _____ County

*County where you are filing this Waiver***State of Iowa**

vs.

Defendant

Case no. _____

Waiver of Speedy Trial (90 Day)

If you need assistance to participate in court due to a disability, call the disability coordinator (information at <https://www.iowacourts.gov/for-the-public/ada/>). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

The defendant acknowledges the following: *Read, complete, and check each item if you agree.*

- ☐ The defendant understands that the defendant has the right to be brought to trial within 90 days of the date that the indictment/trial information was filed and that if the State fails to do so, the case could be permanently dismissed. This right is called the Right to a Speedy Trial (90 day) and it is set out in Iowa Rule of Criminal Procedure 2.33(2)(b).
- ☐ The defendant understands that waiver of speedy trial is the defendant's right and the defendant can either enforce it or waive it (give it up).
- ☐ The defendant waives (gives up) the right to be tried within 90 days of the date that the indictment/trial information was filed and agrees that the State may delay bringing the defendant's case to trial beyond the required deadline.

Signature*Check one*

- A. ☐ The defendant files this Waiver pro se (without an attorney).

If you check A, you must fill in the following information:

_____, 20____
*Month Day Year Pro se defendant's signature**

Mailing address

_____, _____
City State ZIP code

(_____) _____
Phone number Email address

**This form may be signed either by using a digitized signature, see instructions at <https://www.iowacourts.gov/for-the-public/court-forms/>, or by printing and hand-signing.*



Rule 2.37—Form 10: Waiver of Speedy Trial (90 Day), continued

- B. ☐ The defendant's attorney is filing this Waiver on behalf of the defendant after discussing the contents of this Waiver with the defendant.

If you check B, you must fill in the following information:

_____, 20____
Month Day Year Attorney's signature

Name of law firm, if applicable

Mailing address

_____, _____, _____
City State ZIP code

(_____) _____
Phone number

Email address

Additional email address, if applicable

[Court Order October 14, 2022, effective July 1, 2023]

Rule 2.37 — Form 11: Waiver of Speedy Trial (One Year)**Rule 2.37—Form 11: Waiver of Speedy Trial (One Year)**

In the Iowa District Court for _____ County

*County where you are filing this Waiver***State of Iowa**

vs.

Defendant

Case no. _____

Waiver of Speedy Trial (One Year)

If you need assistance to participate in court due to a disability, call the disability coordinator (information at <https://www.iowacourts.gov/for-the-public/ada/>). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

The defendant acknowledges the following: *Read, complete, and check each item if you agree.*

- ☐ I understand that I have the right to be brought to trial within one year of the date of my arraignment and that if the State fails to do so, the case against me could be permanently dismissed. This right is called the right to a speedy trial (one year rule) and it is set out in Iowa Rule of Criminal Procedure 2.33(2)(c).
- ☐ I have already knowingly, voluntarily, and intelligently waived (given up) my right to have the case tried within 90 days of the date that formal charges were filed against me.
- ☐ I understand that waiver of speedy trial is my right and that I can either enforce it or waive it (give it up).
- ☐ I hereby waive (give up) the right to be tried within one year of my arraignment, and I agree that the State may delay bringing me to trial beyond the required deadline.

Signatures*Check one*

- A. ☐ An attorney did not help me prepare or fill in this Waiver.

If you check A, you must fill in the following information:

_____, 20____
Month Day Year

*Pro se defendant's signature**

Mailing address

City

State

ZIP code

(_____) _____
Phone number

Email address



Rule 2.37—Form 11: Waiver of Speedy Trial (One Year), continued

B. ☐ An attorney helped me prepare or fill in this Waiver.

If you check B, you must fill in the following information:

_____, 20____
*Month Day Year Defendant's signature**

_____, 20____
Month Day Year Attorney's signature

Name of attorney's law firm, if applicable

Attorney's mailing address

_____, _____, _____
Attorney's city Attorney's state Attorney's ZIP code

(_____) _____
Attorney's phone number

_____, _____
Attorney's email address Additional email address, if applicable

**This form may be signed either by using a digitized signature, see instructions at <https://www.iowacourts.gov/for-the-public/court-forms/>, or by printing and hand-signing.*

[Court Order October 14, 2022, effective July 1, 2023]

Rule 2.37 — Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class “D” Felonies



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class “D” Felonies

In the Iowa District Court for _____ County

County where you are filing this Waiver

State of Iowa

vs.

Defendant

Case no. _____

**Waiver of Rights & Written Guilty Plea
for Serious or Aggravated
Misdemeanors or Nonforcible Class “D”
Felonies**

On _____, 20____, Defendant, _____, comes before the court with Defendant’s attorney, _____, and submits this Waiver of Rights and Written Guilty Plea.

1. Offense

Initials _____

I am pleading guilty to the following criminal offense(s) (charge/code section/level of offense):

Count I: _____

Count II (if applicable): _____

Count III (if applicable): _____

☐ Check this box if you have attached a sheet with additional information.

2. Preliminary admissions

Initials _____

A. I am _____ years of age. I have completed _____ years of school. My highest level of education is _____. I have read and understand this document and the plea agreement.

B. I am not under the influence of any illicit drugs or alcohol. I have not used any illicit drugs or alcohol in the past 24 hours. I have not taken any medication(s) other than as prescribed by my doctor in the past 24 hours. To the extent that I am taking medication as prescribed, those medications do not affect my ability to understand the contents and consequences of this written guilty plea.

C. I do not have a physical or mental condition that prevents me from understanding the charge(s) or proceedings.

D. ☐ I read, write, and understand the English language.

☐ I do **not** read, write, or understand the English language. I have reviewed this written guilty plea with the assistance of _____, a court-appointed interpreter, who has translated this written guilty plea, the plea agreement, and any other documents related to this matter for me.



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies, continued

- E.** I authorize my attorney to appear on my behalf for the ☐ guilty plea only ☐ guilty plea and sentencing.
- F.** I have received, read, and reviewed the trial information and minutes of testimony with my attorney. I understand the nature of the charges against me and what the State would be required to prove.
- G.** I have discussed possible legal defenses with my attorney, including any potential suppression issues. I know of no legal defense to the charge(s), suppression issue(s), or any other reason that would change my decision to enter this written guilty plea.
- H.** I understand that by pleading guilty, I may not be able to vote, hold public office, or possess firearms or ammunition. I further understand that certain convictions can have adverse consequences with housing, employment, federal or state benefits, student loans, and driving privileges in addition to other consequences.
- I.** If I am convicted of two or more felony offenses in my lifetime, I may be subject to an enhanced sentence as a habitual felon. Also, depending on the offense to which I am pleading guilty, an enhanced sentence may apply if I am convicted at a later date of a similar offense (for example, controlled substances, theft, domestic abuse assault).
- J.** ☐ I am not currently on probation or parole.
- ☐ I am currently on probation or parole. I understand that this written guilty plea is an acknowledgement that I have violated the terms and conditions of my probation or parole. I further understand that the court may revoke my probation or parole and order those terms to be served consecutive to any punishment imposed in this case.
- K.** I have had enough time and opportunity to meet or speak with my attorney. I am satisfied with their representation and the services they have provided.
- L.** I am entering this written guilty plea of my own free will. No promises, other than those contained in the plea agreement (if applicable), and no threats have been made to induce me to sign this written guilty plea. This guilty plea is made knowingly, intelligently, and voluntarily.

3. Waiver of trial rights

Initials _____

I have been advised, and understand, that I may maintain my plea of not guilty to all charges. Before the court will accept my plea, the court must be satisfied that I understand my constitutional rights. I understand that I am giving up the following rights:

- A.** A speedy and public trial by a jury of twelve people.
- B.** A unanimous verdict before I can be found guilty by the jury.
- C.** The right to have my case tried to a judge instead of a jury, if I timely waive my right to a jury trial.



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class “D” Felonies, continued

- D. An attorney to represent me at all proceedings; and if the court determines that I am unable to afford an attorney, one would be appointed at state expense to represent me at all stages of this criminal case. I understand that my attorney is willing to represent me at trial if I desire a trial.
- E. The privilege against self-incrimination; I do not have to testify at my trial unless I want to, and the prosecution cannot comment on my refusal to testify, nor can the jury consider my silence against me.
- F. The presumption of innocence; at trial, I would be presumed innocent until such a time, if ever, the State established my guilt beyond a reasonable doubt by producing competent evidence.
- G. Confront and cross-examine witnesses called by the State.
- H. Call witnesses and present evidence on my own behalf and subpoena witnesses (compulsory process) to secure their attendance.

4. Penalties

Initials _____

- A. I am pleading to a ☐ class “D” felony ☐ aggravated misdemeanor ☐ serious misdemeanor. I understand the court may impose the penalties detailed below:

	Incarceration		Fines	
	Maximum	Minimum	Maximum	Minimum
Class “D” Felony	Five (5) Years Incarceration	Suspended Sentence (Deferred eligibility pursuant to § 907.3)	\$10,245.00 (Civil Penalty, if judgment deferred)	\$1,025.00 (Civil Penalty, if judgment deferred)
Aggravated Misdemeanor	Two (2) Years Incarceration	Suspended Sentence (Deferred eligibility pursuant to § 907.3)	\$8,540.00 (Civil Penalty, if judgment deferred)	\$855.00 (Civil Penalty, if judgment deferred)
Serious Misdemeanor	One (1) Year Incarceration	Suspended Sentence (Deferred eligibility pursuant to § 907.3)	\$2,560.00 (Civil Penalty, if judgment deferred)	\$430.00 (Civil Penalty, if judgment deferred)

- B. I understand that if I am pleading guilty to multiple charges, the penalties detailed above could run consecutive to one another. I also understand that the terms of confinement set forth above could run consecutive to sentences in other cases, including cases for which I am on probation or parole.



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class "D" Felonies, continued

- C.** I have been advised of the following surcharges and collateral consequences that may apply for the crime(s) to which I am pleading guilty:
- (1)** Pursuant to Iowa Code section 911.1, I shall pay a 15% crime services surcharge on the total fine imposed, unless the fine or penalty has been suspended.
 - (2)** Pursuant to Iowa Code section 911.2A, I shall pay a human trafficking victim surcharge of \$1,000.00 for each violation of sections 725.1(2), 710A.2, 725.2, or 725.3.
 - (3)** Pursuant to Iowa Code section 911.2B, I shall pay a domestic or sexual abuse related crimes surcharge of \$90.00 for each violation of sections 708.2A, 708.11, 710A.2, or chapter 709, or if I am held in contempt of court for violating a domestic abuse protective order issued pursuant to chapter 236.
 - (4)** Pursuant to Iowa Code section 911.5, I shall pay an agricultural theft surcharge of \$500.00 for each violation of section 714.2(1)–(3) or sections 716.3, 716.4, or 716.5 if I damaged, defaced, altered, or destroyed agricultural property.
 - (5)** If placed on supervised probation, there will be a \$300 supervision fee.
 - (6)** For aggravated misdemeanors and felonies, a DNA sample will be collected by the state.
 - (7)** Other: _____

☐ Check this box if you have attached a sheet with additional information.

5. Plea agreement

Initials _____

- A.** Other than the plea agreement stated below, there are no other agreements that have been used to convince me to enter this written guilty plea. No one has threatened me or made any promises or assurances to me to force me to enter this written guilty plea. I am pleading guilty voluntarily and with a full understanding of my rights. The terms of the plea agreement are as follows:
- _____
- _____
- _____

☐ Check this box if you have attached a sheet with additional information.

- B.** ☐ **Court not bound by the plea agreement.** I understand that the court is not bound by the plea agreement detailed above and may sentence me up to the maximum sentence provided by law.
- ☐ **No agreement.** This written guilty plea is entered without any agreement with the State concerning the charge(s) against me or my sentence.



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class “D” Felonies, continued

- ☐ **Plea agreement conditioned on court approval.** This written guilty plea is entered pursuant to Iowa Rule of Criminal Procedure 2.10 based upon an agreement with the State concerning the charge(s) against me and my sentence. If, at the time of sentencing, the court does not accept the plea agreement, I may withdraw my plea of guilty.

Prosecuting attorney’s signature/initials: _____

If the prosecuting attorney does not sign or initial above, the State must file an approval confirming the terms of the plea agreement within two working days of the date this plea is filed.

6. Factual basis

Initials _____

- A.** I understand that I have the choice in maintaining my not guilty plea or entering a plea of guilty. I hereby plead guilty to (charge/code section/level of offense):

Count I: _____

Count II (if applicable): _____

Count III (if applicable): _____

☐ Check this box if you have attached a sheet with additional information.

- B.** I admit that on or about _____, 20____, in _____ County, I did the following:

Count I: _____

Count II (if applicable): _____

Count III (if applicable): _____

☐ Check this box if you have attached a sheet with additional information.



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class “D” Felonies, continued

- C.** I agree that a jury could find me guilty on each charge for which I am pleading guilty if the witnesses testified as set forth in the minutes of testimony.
- ☐ The court may rely on the minutes of testimony for a further factual basis for my guilty plea.
- D.** If this is an enhanced charge, I admit the following:
- (1)** I understand that I have the right to a separate trial on the issue of whether I have prior convictions that increase the sentence in this case. I also understand that I would be entitled to the same trial rights explained in Section 3.
- (2)** I understand that I have the right to a hearing before a judge to determine, and have the State prove, whether I was represented by an attorney or waived my right to be represented by an attorney in the prior case(s).
- (3)** By entering this written guilty plea, I understand that I am waiving my right to a separate trial on the issue of identity. I also understand that I am also waiving my right to a hearing before a judge on the issue of whether I was previously represented by an attorney.
- (4)** Prior convictions.
- i. I admit that on or about _____, 20____, in _____
County, in case number _____, I was convicted of _____.
Description and level of offense
At the time, I was represented by _____.
Name of attorney who represented you
- ii. I admit that on or about _____, 20____, in _____
County, in case number _____, I was convicted of _____.
Description and level of offense
At the time, I was represented by _____.
Name of attorney who represented you
- ☐ Check this box if you have attached a sheet with additional information.



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class “D” Felonies, continued

7. Post-plea rights

Initials _____

A. Motion in arrest of judgment and sentencing. I understand that if I wish to challenge this written guilty plea, I must do so by filing a motion in arrest of judgment at least 5 days prior to the court imposing sentence and no later than 45 days from today's date. I understand that if I do not timely file a motion in arrest of judgment, I will not be able to challenge any defects in the plea, including in an appeal. I further understand that I have the right to a 15-day delay between the time the court accepts my guilty plea and the time the court conducts sentencing.

- ☐ I ask the court to sentence me at a later date.
- ☐ I ask the court to sentence me immediately. In doing so, I understand that I am waiving my right to challenge this guilty plea and waive my right to a 15-day delay between the time the court accepts my guilty plea and the time the court conducts sentencing.

B. Presentence investigation report. I understand that if I enter a plea of guilty to a felony, a presentence investigation report (PSI) must be ordered by the court pursuant to Iowa Code section 901.2 and that I cannot waive the preparation of a PSI. I understand that I have a right to have the court use the PSI when determining my sentence in this case. The report would contain information and background about myself, including information about my family, employment, education, substance abuse or mental health treatment, military service, prior criminal history, and other social history. The report would also include information from the Iowa Department of Corrections regarding my rehabilitative needs and services available as well as a sentencing recommendation. I understand that the report could contain favorable information that could result in a lesser sentence.

- ☐ I ask the court to order a PSI and sentence me at a later date.
- ☐ I waive the use of a PSI for purposes of sentencing and ask the court to sentence me immediately.

C. Personal presence. I understand that I have the right to a hearing in open court for my guilty plea and sentencing where a court reporter makes a transcript of what is said.

- ☐ I am waiving my right to a hearing in open court for my guilty plea and sentencing.
- ☐ I am waiving my right to a hearing in open court for my guilty plea but I want to appear by interactive audiovisual system for sentencing.
- ☐ I am waiving my right to a hearing in open court for my guilty plea but I want to appear in person in open court for sentencing.

D. Allocution. I understand that pursuant to Iowa Rule of Criminal Procedure 2.23(2)(d)(3), I have the right to make a statement to the court prior to sentencing in mitigation of punishment.

- ☐ I waive my right of allocution.
- ☐ I request a sentencing hearing and the right of allocution at the hearing.



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class “D” Felonies, continued

E. Immigration consequences. I have been advised that if I am not a United States citizen, a criminal conviction, deferred judgment, or deferred sentence may affect my status under federal immigration laws. I have consulted with my attorney and considered the immigration consequences that include, but are not limited to, deportation, inability to reenter the United States, mandatory detention in immigration custody, ineligibility for release on bond during immigration proceedings, and increased penalties for unauthorized reentry into the United States. I have been further advised that I should seek an immigration attorney if I have any questions about the impact of this conviction, deferred judgment, or deferred sentence on my immigration status now or in the future.

F. Appellate rights. I understand that by submitting this written guilty plea, I no longer have an absolute right to appeal my conviction. In order to appeal, I now need to establish good cause. If I choose to appeal, a notice of appeal must be filed within 30 days of sentencing, or I will not be able to appeal my conviction.

G. Restitution.

(1) Category “A” restitution. I understand that I may be assessed category “A” restitution, which encompasses monetary damages to crime victims (referred to as pecuniary damages), fines, penalties, and surcharges. **I understand that I will be required to pay, in full, pecuniary damages, if any, and category “A” restitution, except for any fines, penalties, or surcharges that are suspended.**

(2) Category “B” restitution. I further understand that I may be assessed category “B” restitution, which encompasses repayment of contributions to local anticrime organizations that provided assistance to law enforcement in this case, crime victim compensation program reimbursements, expenses incurred by public agencies pursuant to Iowa Code section 321J.2(13)(b), court costs, court-appointed attorney fees and expenses (including the expense of a public defender), and medical assistance program reimbursements pursuant to Iowa Code chapter 249A.

(3) Reasonable ability to pay. I understand that I may ask the court to determine the amount of category “B” restitution payments that I am reasonably able to pay. I understand that I am presumed to have the reasonable ability to make payments for the full amount of category “B” restitution. I understand that if I do not ask the court to make the determination at the time of sentencing or within 30 days of the issuance of a restitution order, and that if I do not file a completed financial affidavit and prove that I am not reasonably able to make payments toward the full amount of category “B” restitution, I will be ordered to pay the full amount of category “B” restitution, and I will waive future claims regarding my reasonable ability to pay, except as provided by Iowa Code section 910.7.



Rule 2.37—Form 12: Waiver of Rights & Written Guilty Plea for Serious or Aggravated Misdemeanors or Nonforcible Class “D” Felonies, continued

Defendant's Certification

I have had the opportunity to discuss this Waiver of Rights and Written Guilty Plea with my attorney and ask questions. I understand the contents and consequences of this written guilty plea as explained above. I also understand that by pleading guilty, I am giving up the rights set forth above and that there will not be a trial on this offense(s). I am pleading guilty because I am in fact guilty of the offense(s) detailed in Section 1 of this petition. I knowingly, intelligently, and voluntarily enter this written guilty plea and request that the court accepts it consistent with the terms set forth herein.

_____, 20____
 Month Day Year Defendant's signature

Defendant's Attorney's Certification

I certify, as an officer of the court, that I have had ample opportunity to confer with my client. I have provided my client with the opportunity to ask any questions that they may have. I have explained the contents of this written guilty plea, their waiver of rights, the minimum and maximum punishments, the plea agreement, the collateral consequences for a conviction of these offenses, and the possible defenses and strategies. I am not aware of any legal reason why the court should not accept this waiver of rights, plea agreement, and petition to plead guilty.

I further certify that after discussing these matters with my client, I believe they knowingly, intelligently, and voluntarily executed this waiver of rights and written guilty plea and request the court accept it, consistent with the terms set forth herein.

_____, 20____
 Month Day Year Attorney's signature

 Name of attorney's law firm, if applicable

 Attorney's mailing address

_____, _____, _____
 Attorney's city Attorney's state Attorney's ZIP code

(_____)_____
 Attorney's phone number

_____, _____
 Attorney's email address Additional email address, if applicable

[Court Order October 14, 2022, effective July 1, 2023]

Rules 2.38 to 2.50 Reserved.

SIMPLE MISDEMEANORS

Rule 2.51 Scope of rules and definitions.

2.51(1) Scope. The rules set forth in this section shall apply to trials, related proceedings, and appeals from conviction of simple misdemeanors.

2.51(2) Definition. For purposes of this section, “magistrate” includes judicial magistrates, district associate judges, and district judges.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.52 Applicability of indictable offense rules. Procedures not provided for herein shall be governed by the provisions of the rules or statutes governing indictable offenses that are by their nature applicable to simple misdemeanor prosecutions.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §81; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.53 To whom tried.

2.53(1) Generally. Judicial magistrates and district associate judges may hear, try, and determine simple misdemeanors.

2.53(2) Transfer. District judges may transfer any simple misdemeanors pending before them to a judicial magistrate or district associate judge.

2.53(3) Joint trial. When a simple misdemeanor arises out of the same transaction or occurrence as an indictable offense, preference should be given to consolidating the matters for trial.

2.53(4) Jury trial. A simple misdemeanor is not tried to a jury unless the defendant timely requests a jury trial within 10 days following the plea of not guilty.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §82; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.54 The complaint. Prosecutions for simple misdemeanors shall be initiated by sworn complaint.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.55 Contents of the complaint. The complaint shall contain:

2.55(1) The name of the county and of the court where the complaint is filed.

2.55(2) The name of the accused, if known, and if not known, designation of the accused by any name by which the accused may be identified.

2.55(3) The name of the offense and the statutory provision or provisions alleged to have been violated, a brief statement of the acts or omissions by which the offense is alleged to have been committed, and a brief statement of the time and place of the offense, if known.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §83; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.56 Approval of the complaint. The complaint shall be approved by the magistrate upon a determination of probable cause.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.57 Arrest warrant. Immediately upon approving the complaint, the magistrate may issue an arrest warrant.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.58 Appearance of the defendant.

2.58(1) Arrest and appearance. An officer making an arrest with or without a warrant shall take the arrested person before a magistrate either personally or by interactive audiovisual system as

provided by rule 2.27(1)(a) within 24 hours unless no magistrate is available and in all events within 48 hours.

2.58(2) *Arrest without a warrant.* When a person is arrested without a warrant, a complaint shall be filed immediately.

2.58(3) *Determination of probable cause.* If the defendant received a citation or was arrested without a warrant, the magistrate shall, prior to further proceedings in the case, make a determination from the complaint or affidavits filed with the complaint whether there is probable cause to believe that an offense has been committed and that the defendant has committed it. The magistrate's decision in this regard shall be entered in the record.

2.58(4) *Prosecution of corporations.* A corporation may be summoned as provided in Iowa Code chapter 807.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §84; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.59 Verification of complaint. At the defendant's initial appearance, the magistrate shall inform the defendant of the complaint and ensure the defendant receives a copy of it. The defendant must inform the magistrate whether the name and address shown in the complaint are the defendant's true and correct name and address. If the defendant gives no other name, the defendant is thereafter precluded from objecting to the complaint on the ground of being improperly named.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.60 Advice of rights at the initial appearance. At the defendant's initial appearance, the magistrate shall inform the defendant of the following:

2.60(1) The defendant's right to retain counsel.

2.60(2) The defendant's right to request the appointment of counsel if the defendant faces the possibility of incarceration and is unable to obtain counsel by reason of indigency.

2.60(3) The circumstances under which the defendant may secure pretrial release.

2.60(4) The defendant's right to obtain review of any conditions imposed on the defendant's release.

2.60(5) That the defendant is not required to make a statement and that any statement made by the defendant may be used against the defendant.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.61 Appointment of counsel. In cases where the defendant faces the possibility of incarceration, the magistrate shall appoint counsel for an indigent defendant in accordance with procedures established under rule 2.2(3). The magistrate shall allow the defendant reasonable time and opportunity to consult with counsel if the defendant expresses a desire to do so.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §85; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.62 Bail. Admission to bail shall be as provided for in Iowa Code chapter 811. Upon proper application, a district judge or district associate judge is authorized to review and amend the conditions of bail previously imposed. There shall be no more than one review except upon changed conditions.

[66GA, ch 1245(2), §1302; Report December 28, 1989, effective April 2, 1990; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.63 Plea.

2.63(1) *Plea.* At the defendant's initial appearance, the defendant shall be required to enter a plea to the complaint. Permissible pleas include those allowed when the defendant is indicted as set forth in rule 2.8(2).

2.63(2) *Waiver of initial appearance.* Unless otherwise ordered by the court, a defendant may waive the initial appearance by executing and filing a written waiver that substantially complies with rule 2.76—Form 5: *Waiver of Initial Appearance for Simple Misdemeanors*. Thereafter, the date of

the initial appearance is deemed the date the waiver was filed. A defendant may also waive the initial appearance by filing a written guilty plea or written plea agreement.
[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.64 Trial.

2.64(1) Upon a plea other than guilty, the magistrate shall set a trial date, which shall be at least 15 days after the plea is entered.

2.64(2) The magistrate shall advise the defendant of the following:

a. The trial will be without a jury unless the defendant makes a demand for jury trial within 10 days following the plea of not guilty.

b. Failure to make a jury demand in the manner prescribed herein constitutes a waiver of jury trial.

c. If a demand for jury trial is made, the action shall be tried by a jury of six persons.

d. If the defendant so requests, the magistrate may set a trial date for a nonjury trial less than 15 days after a plea other than guilty is entered; however, the magistrate shall notify the defendant that such a request constitutes a waiver of jury trial.

2.64(3) Upon request, evidence to be offered as an exhibit at trial by any party, other than evidence which will be offered for purposes of rebuttal or impeachment, shall be provided to all parties at least 7 days prior to trial. Parties shall be limited to these exhibits except for good cause shown.

[66GA, ch 1245(2), §1302; Report December 28, 1989, effective April 2, 1990; November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.65 Pretrial matters. When the defendant has requested a jury trial, the magistrate may direct that certain matters be raised and addressed prior to the start of the jury trial.

[66GA, ch 1245(2), §1302; 82 Acts, ch 1021, §6, effective July 1, 1983; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.66 Joint trials.

2.66(1) *Multiple complaints.* Two or more complaints against one defendant may be tried jointly.

2.66(2) *Multiple defendants.* Two or more defendants may be tried together if they are alleged to have participated in the same act or the same transaction or occurrence out of which the offense or offenses arose.

2.66(3) *No joinder if prejudice.* Complaints or defendants shall not be jointly tried if the court finds that prejudice will result to a party.

2.66(4) *Separate judgments.* Jointly tried complaints or defendants shall be adjudged separately.
[66GA, ch 1245(2), §1302; 1983 Iowa Acts, ch 186, §10148; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.67 Forfeiture of collateral in lieu of appearance. In the event a simple misdemeanor is charged under the uniform citation and complaint as described in Iowa Code section 805.6, and the defendant either has submitted an unsecured appearance bond as provided in that section or has submitted bail as provided in Iowa Code section 805.9(3), the court or the clerk of court may enter a conviction pursuant to the defendant's written appearance and may enter a judgment of forfeiture of the collateral in satisfaction of the judgment and sentence; provided that if the defendant submitted unsecured appearance bond or if bail remains uncollected, execution may issue upon the judgment of the court at any time after entry of the judgment.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §86; 1987 Iowa Acts, ch 25, §1; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.68 Change of venue. A change of venue may be applied for and accomplished in the manner prescribed in rule 2.11(11).

[66GA, ch 1245(2), §1302; 1983 Iowa Acts, ch 186, §10149; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.69 Selection of jury; trial.

2.69(1) *Selection of panel.* If a jury trial is demanded, the magistrate shall notify the clerk of court of the time and place of trial. The clerk shall randomly select 14 names from the jury pool, which

will constitute the jury panel for voir dire. The clerk shall notify these jurors of the time and place for trial.

2.69(2) *Incorporation of rule 2.18.* Except where inconsistent with this rule, rule 2.18 shall apply to juries in simple misdemeanor cases.

2.69(3) *Alternate jurors.* No alternate jurors shall be chosen.

2.69(4) *Jury of six.* The jury shall be comprised of six jurors.

2.69(5) *Trial.* The court shall conduct the trial in the manner of indictable cases in accordance with rule 2.19.

2.69(6) *Record.*

a. Generally. Trial of a simple misdemeanor offense shall not be reported; however, the magistrate may require electronic reporting upon advance notice to both parties. If the proceedings are not reported electronically, the magistrate shall make minutes of the testimony of each witness.

b. Stenographic reporting. A party may provide a reporter at such party's expense upon notice to all parties and with the magistrate's approval.

c. Transcript of electronic recording. If the trial has been reported electronically, the recording shall be retained by the court. Upon request, the recording shall be transcribed by a person designated by the court and a copy provided upon payment of actual cost or to an indigent defendant at state expense.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Orders October 14, 2022, November 7, 2022, effective July 1, 2023]

Rule 2.70 Judgment.

2.70(1) When the defendant is acquitted, the defendant must be immediately discharged.

2.70(2) When the defendant pleads guilty or is convicted, the magistrate may render judgment as allowed under the law. If the judgment and costs are not fully and immediately satisfied, the magistrate shall so indicate on the judgment.

[66GA, ch 1245(2), §1302; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.71 Prior convictions. If the complaint alleges one or more prior convictions that subject the defendant to an increased sentence, the defendant shall have the opportunity in open court to affirm or deny that the defendant is the person previously convicted, or that the defendant was not represented by counsel and did not waive counsel when previously convicted.

2.71(1) Prior to accepting any affirmation by the defendant, the court shall determine that a factual basis exists for the affirmation and shall have a colloquy with the defendant as provided in rule 2.19(8). However, such colloquy shall omit reference to a waiver of trial by jury unless the defendant timely requested a jury.

2.71(2) If the defendant denies being the person previously convicted, sentence shall be postponed for such time as to permit a trial on the matter.

2.71(3) If jury trial was demanded, the court may, on the issue of identity, reconvene the jury that heard the current offense or dismiss that jury and submit the issue to another jury to be later impaneled. Other objections shall be determined by the court.

[66GA, ch 1245(2), §1302; amendment 1982; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.72 Appeals.

2.72(1) *Generally.* An appeal may be taken by the plaintiff only upon a finding of invalidity of an ordinance or statute. In all other cases, an appeal may only be taken by the defendant and only upon a judgment of conviction. Execution of the judgment shall be stayed upon posting of an appeal bond in the sum specified in the judgment.

2.72(2) *Notice of appeal.* A party takes an appeal by filing with the clerk of the district court a written notice of appeal not later than 10 days after judgment is rendered. Payment of a fine or service of a sentence of imprisonment does not waive the right to appeal nor render the appeal moot.

2.72(3) *Record.* When an appeal is taken, the magistrate shall promptly forward to the appropriate district court clerk a copy of the magistrate's minutes of the witnesses' testimony along with the exhibits. Within 10 days after an appeal is taken, unless extended by order of a district judge or district associate judge, any transcript or electronic recording of the official report shall be filed by the magistrate unless it is already on file.

2.72(4) Procedure.

a. Within 14 days after taking the appeal, the appellant shall file and serve a brief in support of the appeal. The brief shall include statements of the specific issues presented for review and the precise relief requested.

b. Within 10 days after service of the appellant's brief, the appellee may file and serve a responding brief.

c. Either party may request, at the end of the party's brief, permission to be heard in oral argument.

d. Within 30 days after the filing, or expiration of time for filing, of the appellee's brief, the appeal shall be submitted to the court on the record and any briefs without oral argument unless otherwise ordered by the court.

e. If the court, on its own motion or motion of a party, finds the record to be inadequate, it may order the presentation of further evidence.

f. If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the original action was tried by a district associate judge, the appeal shall be decided by a district judge or a different district associate judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or district associate judge.

g. Findings of fact in the original action shall be binding on the judge deciding the appeal if supported by substantial evidence. The judge deciding the appeal may affirm, reverse and enter judgment as if the case were being originally tried, or enter any judgment that is just under the circumstances.

2.72(5) Counsel. In appropriate cases, the magistrate shall appoint counsel on appeal.

2.72(6) Review by supreme court. The defendant may apply for discretionary review pursuant to Iowa Code section 814.6(2)(d), and the plaintiff may apply for discretionary review pursuant to Iowa Code section 814.5(2)(d). Procedure on discretionary review shall be as prescribed in Iowa Rule of Appellate Procedure 6.106.

[66GA, ch 1245(2), §1302; 67GA, ch 147, §54; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.73 Motion for a new trial.

2.73(1) Generally. The magistrate, on motion of a defendant, may grant a new trial on the grounds set forth in rule 2.24(2)(b).

2.73(2) Newly discovered evidence. A motion for a new trial based on newly discovered evidence must be made within 6 months after the final judgment.

2.73(3) Other grounds. A motion for a new trial based on any other grounds shall be made within 7 days after a finding of guilty or within such further time as the magistrate may fix during the 7-day period.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §87, 88; amendment 1979; 68GA, ch 1022, §22, effective January 1, 1981; amendment 1982; Report May 7, 1986, effective July 15, 1986; 1987 Iowa Acts, ch 25, §2, 3; Report June 29, 2001, effective September 10, 2001; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.74 Correction or reduction of sentence.

2.74(1) The magistrate may correct an illegal sentence at any time. The magistrate may correct a sentence imposed in an illegal manner or may reduce a sentence:

a. Within 10 days after the sentence is imposed.

b. Within 10 days after the receipt by the magistrate of a mandate issued upon affirmance of the judgment or dismissal of the appeal.

c. Within 10 days after entry of any order or judgment of the appellate court denying review of, or having the effect of upholding, a judgment of conviction.

2.74(2) The magistrate may also reduce a sentence upon revocation of probation as provided by law.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §89; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.75 Reserved.

[66GA, ch 1245(2), §1302; 67GA, ch 153, §90; Report November 9, 2001, effective February 15, 2002; Court Order October 14, 2022, effective July 1, 2023]

Rule 2.76 Forms.**Rule 2.76 — Form 1: *Complaint*.**

State of Iowa
County of _____
Criminal Case No. _____
State of Iowa
vs.
A _____ B _____, Defendant.

Before (Judge, Magistrate) _____

The defendant is accused of the crime of (here name the offense and Code or ordinance section), in that the defendant on the _____ day of _____, 20 _____ at the _____
(here locate the city, or township where the offense occurred), in _____ County, did (state the acts or omissions constituting the offense).

/s/ _____

[66GA, ch 1245(2), §1302; 67GA, ch 153, §102; Report November 9, 2001, effective February 15, 2002]

Rule 2.76 — Form 2: *Consent to Forfeiture of Collateral as Disposition of Misdemeanor.*

State of Iowa

County of _____

Criminal Case No. _____

I, the undersigned, agree to have the amount of \$_____ forfeited as a fine and my case terminated. I do this with the following understanding:

1. I have been charged with the offense of _____ (here name the offense and Code or ordinance section).

2. I understand my rights, including my right to trial before the court on such charge, and voluntarily waive same, understanding that forfeiture of the aforesaid amount terminates my right to a trial and constitutes a conviction of the offense charged.

(Signature of defendant)

[66GA, ch 1245(2), §1302; 67GA, ch 153, §103; Report November 9, 2001, effective February 15, 2002]

Rule 2.76 — Form 3: *Notice of Appeal to a District Court Judge From a Judgment or Order.*

State of Iowa

County of _____

Criminal Case No. _____

State of Iowa

vs.

Notice of Appeal

C _____ D _____, Defendant.

Notice is hereby given that C _____ D _____, defendant above named, hereby appeals to a district court judge for _____ County (from the final judgment) (from the order) entered in this action on the _____ day of _____, 20 ____.

/s/ _____

(Address)

Attorney for C _____ D _____

[66GA, ch 1245(2), §1302; 67GA, ch 153, §104; Report November 9, 2001, effective February 15, 2002]

Rule 2.76 — Form 4: Bail Bond on Appeal to District Court.

State of Iowa

County of _____

Criminal Case No. _____

A _____ B _____ having been convicted before C _____ D _____ a magistrate of said county, of the crime of (here designate it generally as in the information), by a judgment rendered on the _____ day of _____, A.D. _____, and having appealed from said judgment to a district court judge of said county:

We, A _____ B _____, and E _____ F _____, hereby undertake that the said A _____ B _____ will appear in the district court of said county on the _____ day of _____ (month), 20 _____ (year), (which date shall be not more than 20 days after perfection of the undertaking), and submit to the judgment of said court, and not depart without leave of the same, or that we (or I, as the case may be) will pay to the state of Iowa the sum of _____ dollars (the amount of bail fixed).

A _____ B _____

E _____ F _____

Accepted by me, at _____, in the township of _____, this _____ day of _____, A.D. _____.

C _____ D _____
Judicial Magistrate

[66GA, ch 1245(2), §1302; 67GA, ch 153, §105; Report November 9, 2001, effective February 15, 2002]

Rules 2.77 to 2.79 Reserved.

EXPUNGEMENT**Rule 2.80 Expungement of dismissed cases or acquittals.**

2.80(1) Either a defendant or a prosecuting attorney may file an application to expunge the district court criminal records of a case under Iowa Code section 901C.2 where an acquittal was entered for all criminal charges or where all criminal charges have been otherwise dismissed. The court may also expunge an eligible case on its own motion. The application may be filed by an attorney of record in the case, by an attorney who enters a limited appearance for the expungement proceedings, or by a self-represented defendant.

2.80(2) An application for expungement of a criminal case record under Iowa Code section 901C.2 shall be initiated by completing and filing an application that substantially complies with Rule 2.86—Form 1: *Application to Expunge Court Record under Iowa Code section 901C.2*.

2.80(3) The application must be filed in the case where expungement is sought and served on the county attorney. If the application is filed by a county attorney, the county attorney shall provide notice to the defendant and any counsel of record.

2.80(4) The application and all attachments shall be confidential.

2.80(5) For the purposes of this rule, a “case” refers to a separately numbered case.

2.80(6) For the purposes of this rule, “otherwise dismissed” includes a separately numbered case in which a case number becomes inactive because all charges have been transferred to another case number.

[Court Order January 29, 2021, effective July 1, 2021]

Rule 2.81 Expungement of eligible misdemeanor convictions.

2.81(1) A defendant seeking expungement of district court criminal records for an eligible misdemeanor as defined in Iowa Code section 901C.3 shall file an application. The application may be filed by an attorney of record in the case, by an attorney who enters a limited appearance for the expungement proceedings, or by a self-represented defendant.

2.81(2) An application for expungement of a misdemeanor under Iowa Code section 901C.3 shall be initiated by executing and filing an application that substantially complies with Rule 2.86—Form 2: *Application to Expunge Misdemeanor Court Records under Iowa Code section*

901C.3. An application for expungement of a misdemeanor under Iowa Code section 901C.3 must be accompanied by an official Division of Criminal Investigation Iowa criminal history record check, obtained by submitting form DCI-77 with a release authorization signature, dated within the past 30 days.

2.81(3) The application must be filed in the case where expungement is sought and served on the county attorney.

2.81(4) If the defendant seeking misdemeanor expungement has records eligible for expungement under different case numbers that arose from the same transaction or occurrence, the defendant must file a copy of the application in each case.

2.81(5) The application and all attachments shall be confidential.
[Court Order January 29, 2021, effective July 1, 2021]

Rule 2.82 Expungement of public intoxication, possession of alcohol under the legal age, and certain prostitution cases.

2.82(1) A defendant seeking expungement of district court criminal records from an eligible misdemeanor as defined in Iowa Code section 123.46, 123.47, or 725.1 shall file an application. The application may be filed by an attorney of record in the case, by an attorney who enters a limited appearance for the expungement proceedings, or by a self-represented defendant.

2.82(2) An application for expungement of a case under Iowa Code section 123.46 shall be initiated by executing and filing an application that substantially complies with Rule 2.86—Form 3: *Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46*.

2.82(3) An application for expungement of a case under Iowa Code section 123.47 shall be initiated by executing and filing an application that substantially complies with Rule 2.86—Form 4: *Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47*.

2.82(4) An application for expungement of a case under Iowa Code section 725.1 shall be initiated by executing and filing an application that substantially complies with Rule 2.86—Form 5: *Application to Expunge Prostitution Court Records under Iowa Code section 725.1*.

2.82(5) The application and all attachments shall be confidential.
[Court Order January 29, 2021, effective July 1, 2021]

Rule 2.83 Expungement proceedings.

2.83(1) The county attorney may file a response to an application under rule 2.80, 2.81, or 2.82. The response shall be filed within 20 days after service of the application unless otherwise ordered by the court. The response shall be confidential.

2.83(2) The district court shall grant the expungement if, after consideration of the application, the response (if any), and any other pertinent information, it determines that the requirements for expungement have been met. The court may conduct a hearing.

2.83(3) For purposes of Iowa Code sections 901C.2(1)(a)(2) and 901C.3(1)(d), the referenced financial obligations are those obligations in the case or cases where expungement is sought. Room and board fees sought under a separate civil action pursuant to Iowa Code section 356.7 are not considered to be obligations in the case or cases where expungement is sought. Payment of court debt or other financial obligations is not a precondition for expungement under Iowa Code section 123.46(6), 123.47(8), or 725.1(1)(c).

2.83(4) For purposes of Iowa Code section 901C.3(1)(b), any pending charge of a public offense as defined in Iowa Code section 692.1 shall be considered a pending criminal charge.

2.83(5) For purposes of Iowa Code section 901C.3(1)(c), all charges as to which a deferred judgment was granted at the same time shall be considered one deferred judgment.

[Court Order January 29, 2021, effective July 1, 2021]

Rule 2.84 When expungement is granted.

2.84(1) When expungement of a dismissal or acquittal is granted under Iowa Code section 901C.2, the court shall order that the record in that criminal case shall become a confidential record exempt from public access under Iowa Code section 22.7. The record shall be made available by the clerk of the district court, upon request and without court order, to the defendant or to an agency or person granted access to the deferred judgment docket under Iowa Code section 907.4(2). The record shall not otherwise be accessible except by court order.

2.84(2) When expungement of a misdemeanor conviction is granted under Iowa Code section 901C.3, the court shall order that the record in that criminal case shall become a confidential record exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.

2.84(3) When expungement of a conviction for public intoxication, possession of alcohol under legal age, or certain prostitution charges is granted under Iowa Code section 123.46, 123.47, or 725.1, the court shall order that the record in the criminal case shall become a confidential record exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.

2.84(4) The district court shall have jurisdiction to issue further orders as necessary to implement a grant of expungement.

2.84(5) Appellate records, other than appeals of simple misdemeanors to district court, are not subject to expungement.

[Court Order January 29, 2021, effective July 1, 2021]

Rule 2.85 Confidential record of expunged misdemeanors. In order to implement Iowa Code section 901C.3(4), the Iowa Judicial Branch shall maintain a confidential record of expunged misdemeanors. This record shall be confidential and exempt from public access under Iowa Code section 22.7. Before granting an application for expungement under Iowa Code section 901C.3, the district court shall access the record in a manner authorized by the record's designated custodian to determine whether the applicant has received a prior misdemeanor expungement. If a prior misdemeanor expungement is found, the case name, case number, and date of expungement shall be provided to the parties.

[Court Order January 29, 2021, effective July 1, 2021]

Rule 2.86 Forms.**Rule 2.86 — Form 1: Application to Expunge Court Record under Iowa Code section 901C.2****Rule 2.86—Form 1: Application to Expunge Court Record under Iowa Code section 901C.2**

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County <i>County where you are filing this Application</i>	
State of Iowa or _____ vs. Defendant _____	Case no. _____ Application to Expunge Court Record under Iowa Code section 901C.2 <small>If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). Disability coordinators cannot provide legal advice.</small>

Defendant respectfully applies to the court for an order expunging the court records in this case pursuant to Iowa Code section 901C.2. In support of this application, Defendant acknowledges that the following statements are true and correct to the best of Defendant's knowledge:

Read, complete, and check each item if you agree.

1. ☐ This criminal case contains one or more criminal charges for which:
Check one
 - A. ☐ An acquittal was entered for all criminal charges.
 - B. ☐ All criminal charges have been dismissed.
 2. ☐ All court costs, fees, and any other financial obligations ordered by the court or assessed by the clerk of district court in relation to the charges in this case have been satisfied in full.
 3. ☐ Since entry of the judgment of acquittal or of the order dismissing the case:
Check one
 - A. ☐ More than 180 days have passed.
 - B. ☐ The court should waive the 180-day requirement because:

- ☐ *Check this box if you have attached a sheet with additional information.*
4. ☐ This case was not dismissed due to Defendant being found not guilty by reason of insanity.
 5. ☐ Defendant was not found incompetent to stand trial in this case.



Rule 2.86—Form 1: Application to Expunge Court Record under Iowa Code section 901C.2, continued

Read Before Signing

Please check each statement below after you have read it.

- ☐ **I understand** that I must provide a copy of this application to the county attorney.
- ☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7, but the clerk of district court may make the records available upon request and without court order to Defendant or to an agency or person granted access to the deferred judgment docket under Iowa Code section 907.4(2).
- ☐ **I understand** that Iowa Code section 901C.2 does not apply to dismissals related to a deferred judgment under section 907.9.
- ☐ **I understand** that Iowa Code section 901C.2 applies only to public offenses, as defined under section 692.1.

Certification of Service by Mailing or Delivery

This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.

I, _____, certify that on _____, 20____
Print your full name: first, middle, last *Month* *Day* *Year*

I mailed or gave a copy of this Application to the county attorney at this address:

Name of person to whom I delivered or mailed it

_____, _____, _____, _____
Mailing address *City* *State* *ZIP code*

Signature

Check one

- A. ☐ The defendant files this Application pro se (without an attorney).

If you check A, you must fill in the following information:

I, _____, have read this Application, and I certify
Print your full name: first, middle, last
 under penalty of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Application is true and correct.

_____, 20____
Month *Day* *Year* *Pro se defendant's signature**

Mailing address

_____, _____, _____
City *State* *ZIP code*

(_____) _____
Phone number *Email address*

**This form may be signed either by using a digitized signature, see instructions at <https://www.iowacourts.gov/for-the-public/court-forms/>, or by printing and hand-signing.*



Rule 2.86—Form 1: Application to Expunge Court Record under Iowa Code section 901C.2, continued

- B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

If you check B, you must fill in the following information:

_____, 20____
Month Day Year Attorney's signature

Name of law firm, if applicable

Mailing address

_____, _____
City State ZIP code

(_____) _____
Phone number

Email address Additional email address, if applicable

[Court Order January 29, 2021, effective July 1, 2021; October 14, 2022, effective July 1, 2023]

Rule 2.86 — Form 2: Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3**Rule 2.86—Form 2: Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3**

Note: This form is for expunging **misdemeanor convictions**. Rule 2.86—Form 1 is to be used for expungement of criminal case records where the defendant was acquitted or the charges were dismissed. **Obtaining the advice of counsel is recommended.** Each individual is only allowed one Iowa Code section 901C.3 expungement in the individual's lifetime. If you have multiple misdemeanor convictions, choosing which to expunge may be a difficult strategic decision.

In the Iowa District Court for _____ County

County where you are filing this Application

State of Iowa or _____

Case no(s). _____

vs.

Defendant

**Application to Expunge Misdemeanor
Court Records under Iowa Code section
901C.3**

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Defendant respectfully applies to the court for an order expunging the misdemeanor court records in the above-captioned case (or cases) pursuant to Iowa Code section 901C.3. In support of this application, Defendant acknowledges that the following statements are true and correct to the best of Defendant's knowledge:

Read, complete, and check each item if you agree.

1. Defendant's personal information:

Current legal name:

Full first name

*Full middle name
(write "N/A" if none)*

Full last name

All other names ever used (including any other previous legal names and nicknames):

Full first name

*Full middle name
(write "N/A" if none)*

Full last name

☐ Check this box if you have attached a sheet with additional alternate names.

Personal identifying information:

*Date of birth
(month/day/year)*

Driver's License Number

Social Security Number



Rule 2.86—Form 2: Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3, continued

2. ☐ Defendant has not been granted a prior Iowa Code section 901C.3 expungement.
3. ☐ This expungement application involves related cases and Defendant seeks the expungement of the misdemeanor court records in all of following cases that arise out of the same transaction or occurrence: *See Iowa Code § 901C.3(3).*
- _____
- _____
- _____

☐ Check this box if you have attached a sheet with additional information.

NOTE: You must file this application separately in each of these cases.

4. ☐ The misdemeanor criminal convictions covered by this application are eligible for expungement. **NOTE:** *Convictions under Iowa Code sections 123.46, 123.47(3) (or similar local ordinance), 235B.20, 321.218, 321A.32, 321J.21, 321J.2, 707.5, 708.2(3), 708.2A, 708.7, 708.11, 708.12, 716.8(3) or (4), 721.2, 721.10, 723.1; or chapters 717C, 719, 720, 721.2, 724, 726, 728, 901A; or a sex offense as defined in section 692A.101 are **ineligible**.*
5. ☐ All court costs, fees, fines, restitution, and any other financial obligations ordered by the court or assessed by the clerk of district court in relation to the misdemeanor convictions covered by this application have been paid in full.
6. ☐ More than eight years have passed since the date of the misdemeanor convictions identified in section 2.
7. ☐ Defendant has no pending criminal charges. **NOTE:** *For purposes of this question, a "criminal" charge means any public offense as defined in Iowa Code section 692.1.*
8. ☐ Defendant has not previously been granted more than one deferred judgment. *All charges as to which a deferred judgment was granted at the same time are considered one deferred judgment.*
9. ☐ Defendant has attached an official Division of Criminal Investigation Iowa criminal history records check dated within the past 30 days of the filing of this application. *Defendants must obtain their criminal history by submitting form DCI-77 with a release authorization signature. Additional information regarding obtaining the records check can be found at: <https://dps.iowa.gov/divisions/criminal-investigation/criminal-history/record-check-forms>.*

Read Before Signing

Please check each statement below after you have read it.

- ☐ I **understand** that I must provide a copy of this application to the county attorney.
- ☐ I **understand** that if I file this application to expunge multiple cases, all cases must be related to the same transaction or occurrence.
- ☐ I **understand** that Iowa Code section 901C.3 only permits me one misdemeanor expungement in my lifetime.
- ☐ I **understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7, but the clerk of district court may make the records available upon court order.



Rule 2.86—Form 2: Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3, continued

Certification of Service by Mailing or Delivery

This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.

I, _____, certify that on _____, 20____
Print your full name: first, middle, last *Month* *Day* *Year*

I mailed or gave a copy of this Application to the county attorney at this address:

Name of person to whom I delivered or mailed it

_____, _____, _____, _____
Mailing address *City* *State* *ZIP code*

Signature

Check one

- A. ☐ The defendant files this Application pro se (without an attorney).

If you check A, you must fill in the following information:

I, _____, have read this Application, and I certify
Print your full name: first, middle, last
 under penalty of perjury and pursuant to the laws of the State of Iowa that the
 information I have provided in this Application is true and correct.

_____, 20____
Month *Day* *Year* *Pro se defendant's signature**

Mailing address

_____, _____, _____
City *State* *ZIP code*

(_____) _____
Phone number *Email address*

**This form may be signed either by using a digitized signature, see instructions at
<https://www.iowacourts.gov/for-the-public/court-forms/>, or by printing and hand-signing.*

- B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

If you check B, you must fill in the following information:

_____, 20____
Month *Day* *Year* *Attorney's signature*

Name of law firm, if applicable

Mailing address

_____, _____, _____
City *State* *ZIP code*

(_____) _____
Phone number

Email address *Additional email address, if applicable*

Rule 2.86 — Form 3: Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46



Rule 2.86—Form 3: Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County

County where you are filing this Application

State of Iowa or _____

Case no. _____

vs.

**Application to Expunge Public
Intoxication Court Records under Iowa
Code section 123.46**

Defendant

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Defendant respectfully applies to the court for an order expunging the court records in the above-captioned case pursuant to Iowa Code section 123.46(6). In support of this application, Defendant acknowledges that the following statements are true and correct to the best of Defendant's knowledge:

Read, complete, and check each item if you agree.

1. ☐ I was convicted for a violation of Iowa Code section 123.46, consumption or intoxication in public places, or of a similar local ordinance on:

Month

Day

Year
2. ☐ I have had no criminal convictions other than local traffic violations or simple misdemeanor violations under chapter 321 during the two-year period following the conviction.

Read Before Signing

Please check each statement below after you have read it.

- ☐ **I understand** that I must provide a copy of this application to the county attorney.
- ☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.



Rule 2.86—Form 3: Application to Expunge Public Intoxication Court Records under Iowa Code section 123.46, continued

Certification of Service by Mailing or Delivery

This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.

I, _____, certify that on _____, 20____
Print your full name: first, middle, last Month Day Year

I mailed or gave a copy of this Application to the county attorney at this address:

Name of person to whom I delivered or mailed it

_____, _____, _____, _____
Mailing address City State ZIP code

Signature

Check one

- A. ☐ The defendant files this Application pro se (without an attorney).

If you check A, you must fill in the following information:

I, _____, have read this Application, and I certify
Print your full name: first, middle, last
 under penalty of perjury and pursuant to the laws of the State of Iowa that the
 information I have provided in this Application is true and correct.

_____, 20____
*Month Day Year Pro se defendant's signature**

Mailing address

_____, _____, _____
City State ZIP code

(_____) _____
Phone number Email address

**This form may be signed either by using a digitized signature, see instructions at <https://www.iowacourts.gov/for-the-public/court-forms/>, or by printing and hand-signing.*

- B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

If you check B, you must fill in the following information:

_____, 20____
Month Day Year Attorney's signature

Name of law firm, if applicable

Mailing address

_____, _____, _____
City State ZIP code

(_____) _____
Phone number

_____, _____
Email address Additional email address, if applicable

Rule 2.86 — Form 4: Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47



Rule 2.86—Form 4: Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County

County where you are filing this Application

State of Iowa or _____

Case no. _____

vs.

**Application to Expunge Possession of
Alcohol under the Legal Age Court
Records under Iowa Code section 123.47**

Defendant

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

Defendant respectfully applies to the court for an order expunging the court records in the above-captioned case pursuant to Iowa Code section 123.47(9). In support of this application, Defendant acknowledges that the following statements are true and correct to the best of Defendant's knowledge:

Read, complete, and check each item if you agree.

1. ☐ I was convicted for a violation of Iowa Code section 123.47, possession of alcohol under the legal age, or of a similar local ordinance on:

Month

Day

Year
2. ☐ I have had no criminal convictions other than local traffic violations or simple misdemeanor violations under chapter 321 during the two-year period following the conviction.

Read Before Signing

Please check each statement below after you have read it.

- ☐ **I understand** that I must provide a copy of this application to the county attorney.
- ☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.



Rule 2.86—Form 4: Application to Expunge Possession of Alcohol under the Legal Age Court Records under Iowa Code section 123.47, continued

Certification of Service by Mailing or Delivery

This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.

I, _____, certify that on _____, 20____
Print your full name: first, middle, last *Month* *Day* *Year*

I mailed or gave a copy of this Application to the county attorney at this address:

Name of person to whom I delivered or mailed it

_____, _____, _____, _____
Mailing address *City* *State* *ZIP code*

Signature

Check one

- A. ☐ The defendant files this Application pro se (without an attorney).

If you check A, you must fill in the following information:

I, _____, have read this Application, and I certify
Print your full name: first, middle, last
 under penalty of perjury and pursuant to the laws of the State of Iowa that the
 information I have provided in this Application is true and correct.

_____, 20____
Month *Day* *Year* *Pro se defendant's signature**

Mailing address

_____, _____, _____
City *State* *ZIP code*

(_____) _____
Phone number *Email address*

**This form may be signed either by using a digitized signature, see instructions at
<https://www.iowacourts.gov/for-the-public/court-forms/>, or by printing and hand-signing.*

- B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

If you check B, you must fill in the following information:

_____, 20____
Month *Day* *Year* *Attorney's signature*

Name of law firm, if applicable

Mailing address

_____, _____, _____
City *State* *ZIP code*

(_____) _____
Phone number

Email address *Additional email address, if applicable*

Rule 2.86 — Form 5: Application to Expunge Prostitution Court Records under Iowa Code section 725.1**Rule 2.86—Form 5: Application to Expunge Prostitution Court Records under Iowa Code section 725.1**

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County

County where you are filing this Application

State of Iowa or _____

Case no. _____

vs.

**Application to Expunge Prostitution
Court Records under Iowa Code section
725.1**

Defendant

If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

The undersigned Defendant respectfully applies to the court for an order expunging the court records in the above-captioned case pursuant to Iowa Code section 725.1(1)(c). In support of this application, Defendant states that the following statements are true and correct to the best of Defendant's knowledge:

Read, complete, and check each item if you agree.

1. ☐ I was convicted for a violation of Iowa Code section 725.1(1)(a), prostitution, or of a similar local ordinance on:

Month

Day

Year
2. ☐ I was under the age of eighteen when I engaged in the illegal sex act or acts I was found guilty of committing.
3. ☐ I have had no criminal convictions other than local traffic violations or simple misdemeanor violations under chapter 321 during the two-year period following the conviction.

Read Before Signing

Please check each statement below after you have read it.

- ☐ **I understand** that I must provide a copy of this application to the county attorney.
- ☐ **I understand** that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7. The record shall not be accessible except by court order.



Rule 2.86—Form 5: Application to Expunge Prostitution Court Records under Iowa Code section 725.1, continued

Certification of Service by Mailing or Delivery

This section to be completed only if filing in paper. This Application, if filed electronically, will automatically be served on the county attorney.

I, _____, certify that on _____, 20____
Print your full name: first, middle, last Month Day Year

I mailed or gave a copy of this Application to the county attorney at this address:

Name of person to whom I delivered or mailed it

_____, _____, _____, _____
Mailing address City State ZIP code

Signature

Check one

- A. ☐ The defendant files this Application pro se (without an attorney).

If you check A, you must fill in the following information:

I, _____, have read this Application, and I certify
Print your full name: first, middle, last
 under penalty of perjury and pursuant to the laws of the State of Iowa that the
 information I have provided in this Application is true and correct.

_____, 20____
*Month Day Year Pro se defendant's signature**

Mailing address

_____, _____, _____
City State ZIP code

(_____) _____
Phone number Email address

**This form may be signed either by using a digitized signature, see instructions at
<https://www.iowacourts.gov/for-the-public/court-forms/>, or by printing and hand-signing.*

- B. ☐ Defendant's attorney is filing this Application on behalf of Defendant after discussing the contents of this Application with Defendant.

If you check B, you must fill in the following information:

_____, 20____
Month Day Year Attorney's signature

Name of law firm, if applicable

Mailing address

_____, _____, _____
City State ZIP code

(_____) _____
Phone number

Email address Additional email address, if applicable

CHAPTER 22

JUDICIAL ADMINISTRATION

Rule 22.1	Supervision of courts
Rule 22.2	Recall and transfer of judges
Rule 22.3	Selection of chief judges
Rule 22.4	Order appointing chief judge
Rule 22.5	Duties and powers of chief judges
Rule 22.6	Court and trial sessions
Rule 22.7	Case assignment
Rule 22.8	Judicial district scheduling
Rule 22.9	Change of venue to another judicial district
Rule 22.10	Judges — monthly report
Rule 22.11	Practice of law by judges
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Rule 22.17	Reimbursable travel
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Rule 22.35	Service copies
Rule 22.36	Paper size and requested copies
Rules 22.37 and 22.38	Reserved
Rule 22.39	Staffing offices of clerks of court
Rule 22.40	Public business hours of offices of clerks of court

CHAPTER 22

JUDICIAL ADMINISTRATION

Rule 22.1 Supervision of courts. The supreme court, by and through the chief justice, shall exercise supervisory and administrative control over all trial courts in the state, and over the judges and other personnel thereof, including but not limited to authority to make and issue any order a chief judge may make under rule 22.5, or to modify, amend or revoke any such order or court schedule.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

Rule 22.2 Recall and transfer of judges. The supreme court by and through the chief justice may at any time order the recall of eligible retired judges for active service, and the transfer of active judges and other court personnel from one judicial district to another to provide a sufficient number of judges to handle the judicial business in all districts promptly and efficiently.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

Rule 22.3 Selection of chief judges. Not later than December 15 in each odd-numbered year the chief justice, with the approval of the supreme court, shall appoint from the district judges of each district one of their number to serve as chief judge. The judge so appointed shall serve for a two-year term and shall be eligible for reappointment. Vacancies in the office of chief judge shall be filled in the same manner within 30 days after the vacancy occurs. During any period of vacancy the judge of longest service in the district shall be the acting chief judge.
[Report 1969; Court Order October 31, 1997, effective January 24, 1998; October 27, 1999, effective January 3, 2000; November 9, 2001, effective February 15, 2002]

Rule 22.4 Order appointing chief judge. An order appointing a chief judge shall be filed with the clerk of the supreme court who shall mail a copy to the clerk of the district court in each county in the judicial district. The clerk of the supreme court may mail the copies of the order electronically.
[Report 1969; Court Order November 9, 2001, effective February 15, 2002; April 11, 2007]

Rule 22.5 Duties and powers of chief judges. In addition to their ordinary judicial duties, chief judges shall exercise continuing administrative supervision within their respective districts over all district courts, judges, magistrates, officials and employees thereof for the purposes stated in Iowa R. Civ. P. 1.1807. They shall by order fix times and places of holding court and designate the respective presiding judges and magistrates; they shall supervise and direct the performance of all administrative business of their district courts; they may conduct judicial conferences of their district judges, district associate judges, and magistrates to consider, study and plan for improvement of the administration of justice; and may make such administrative orders as necessary. No chief judge shall at any time direct or influence any judge or magistrate in any ruling or decision in any proceeding or matter whatsoever.

The chief judge of a judicial district may appoint from the other district judges an assistant or assistants to serve on a judicial district-wide basis and at the chief judge's pleasure. When so acting, such an assistant shall have those powers and duties given to the chief judge by statute or rule of court which are specified in the order of appointment. Such appointment shall by general order be made a matter of record in each county in the judicial district.
[Report 1969; amendment 1972; amendment 1979; Court Order October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

Rule 22.6 Court and trial sessions. Chief judges shall by order provide for the following:

22.6(1) A court session by a district judge at least once each week in each county of the district, announced in advance in the form of a written schedule, unless a different schedule is approved by the supreme court.

22.6(2) Additional sessions in each county for the trial of cases, and other judicial matters, of such duration and frequency as will best serve to expeditiously dispose of pending cases ready for trial, and other pending judicial matters.

[Report 1969; Court Order November 9, 2001, effective February 15, 2002]

Rule 22.7 Case assignment. The chief judge may assign and monitor cases within the district and may delegate this authority to the district court administrator by general supervisory order or on

a case-by-case basis. District judges, district associate judges, associate juvenile judges, associate probate judges, and magistrates shall attend to any matter within their statutory jurisdiction assigned to them by the chief judge.

[Court Order May 30, 1986; February 14, 1996; July 26, 1996; November 9, 2001, effective February 15, 2002]

Rule 22.8 Judicial district scheduling.

22.8(1) The chief judge of each judicial district shall by annual written order set the times and places of holding court within the judicial district and designate the respective presiding judges. The order shall provide for a court session at least once a week in each county of the judicial district, unless otherwise approved by the supreme court. The order shall provide for a scheduled trial session in each county of the judicial district at least four times each year, to be presided over by a different judge. In determining the schedule ordered, the chief judge shall rotate trial judges without regard to judicial election district lines to facilitate the administration of justice, integrate the district bench and promote the ideal of district administration.

22.8(2) An order of the chief judge demonstrating compliance with this rule for the next calendar year shall be filed by October 15 of the preceding calendar year with the clerk of the supreme court. Following supreme court approval, the chief judge shall file a copy of the order with the clerk of the district court in each county of the respective judicial district.

[Court Order October 15, 1985; November 9, 2001, effective February 15, 2002]

Rule 22.9 Change of venue to another judicial district.

22.9(1) Definitions. As used in this rule:

- a. “*Receiving county*” means the county to which a change of venue is ordered.
- b. “*Sending county*” means the county from which a change of venue is ordered.

22.9(2) Communication prior to ordering a change of venue. Before ordering a change of venue to another judicial district for trial, a judge shall communicate with the office of the chief judge of the judicial district in which the intended receiving county is located. The judge shall determine from inquiry of the chief judge or the chief judge’s designee the availability of a courtroom, a jury panel if required, and any necessary court personnel in the receiving county. Subject to the approval of the chief justice, the judicial district in which the sending county is located shall provide the trial judge and court reporter for the transferred proceeding.

22.9(3) Transmission of copies of order changing venue. Copies of an order changing venue shall be promptly transmitted to all of the following:

- a. The chief judge of the judicial district in which the receiving county is located.
- b. The court administrator for the judicial district in which the receiving county is located.
- c. The clerk of the district court for the receiving county.
- d. The state court administrator, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319.
- e. Any other persons required by law to receive copies of such an order.

22.9(4) Action brought in wrong county. This rule does not apply where the action was brought in the wrong county.

[Court Order October 20, 1981; November 9, 2001, effective February 15, 2002; April 9, 2003]

See also rule 2.11 and rule 2.65.

Rule 22.10 Judges — monthly report.

22.10(1) Each senior judge, district judge, district associate judge, full-time associate juvenile judge, full-time associate probate judge, and judicial magistrate shall report monthly to the supreme court, through the office of the state court administrator, all matters taken under advisement in any case for longer than 60 days, together with an explanation of the reasons for the delay and an expected date of decision. If no matters have been taken under advisement over 60 days, the report shall state “none.” Senior judges need only file reports for those months during which they perform judicial duties or have matters under advisement.

22.10(2) Any submission shall be reported when all hearings have been completed and the matter awaits decision without further appearance of the parties or their attorney. A matter shall be deemed submitted even though briefs or transcripts have been ordered but have not yet been filed.

22.10(3) The report shall be due on the tenth day of each calendar month for the period ending with the last day of the preceding calendar month. The report shall be signed by the judge or magistrate and submitted on a form prescribed by the state court administrator.

22.10(4) A judge who is reporting a matter or matters taken under advisement for longer than 60 days shall send to the district court administrator a copy of the report forwarded to the state court administrator. The chief judge of the district shall review the copies filed in the district court administrator's office and take such action as shall be appropriate. A chief judge may elect whether to report any action taken to the supreme court. A district chief judge reporting such matters to the supreme court shall forward a copy to the liaison justice for the chief judge's judicial district.

22.10(5) The state court administrator shall promptly cause all reports received to be filed in the office of the clerk of the supreme court as records available for public inspection.

[Court Order December 15, 1977; February 20, 1981; July 16, 1984 — received for publication October 25, 1984; June 28, 1985, effective July 1, 1985; July 26, 1996; November 9, 2001, effective February 15, 2002]

Rule 22.11 Practice of law by judges.

22.11(1) A newly appointed full-time associate juvenile judge, full-time associate probate judge, district associate judge, district judge, court of appeals judge, or supreme court justice (hereinafter, judge) may have 30 days from the date of qualifying for office pursuant to Iowa Code section 63.6, or until the vacancy in the office actually occurs, whichever is later, in which to terminate any private law practice before assuming judicial duties. No newly appointed judge shall be placed on the state payroll or assume judicial duties until such private practice is concluded.

22.11(2) In terminating a law practice, the newly appointed judge shall undertake no new matters, shall conclude those matters which can be completed within the time provided in rule 22.11(1) and shall transfer those matters which cannot be so concluded or which require trial. While in the process of terminating a private practice, the newly appointed judge shall keep court appearances to a minimum.

22.11(3) Upon good cause shown, the supreme court may extend the time in which a newly appointed judge shall comply with this rule.

22.11(4) After assuming judicial duties and being placed on the payroll, a judge shall not engage in the practice of law. The practice of law includes but is not limited to the examination of abstracts, consummation of real estate transactions, preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns.

[Court Order April 29, 1980; June 28, 1985, effective July 1, 1985; July 26, 1996; December 17, 1996, effective January 2, 1997; November 9, 2001, effective February 15, 2002; April 4, 2002]

Rule 22.12 Senior judges.

22.12(1) The supreme court will accept applications from judges for the senior judge program for judges who will be 62 years of age or older at the time the judge assumes senior status. The 62-years-of-age requirement in this rule is effective January 1, 2018, but it will not apply to judges who have 20 years of service prior to the effective date of this rule.

22.12(2) A senior judge must be a resident of the State of Iowa to serve as a senior judge.

22.12(3) In order for senior judges to provide the most effective service to the judicial branch, the supreme court may assign a senior judge:

- a. Within the district the judge served before taking senior status.
- b. To a district other than the judge served before taking senior status.
- c. To more than one district.
- d. To cross district lines, when necessary.
- e. To conduct court-sanctioned alternative dispute resolution.
- f. To the state court administrator to perform non-adjudicative duties such as working on special projects involving technology or education, mentoring other judges, or assisting the supreme court in its administrative or rule-making functions.
- g. To the court of appeals to assist it in its adjudicative duties.
- h. To serve in the capacity of an administrative law judge pursuant to Iowa Code section 602.9206.
- i. To any other duties the supreme court may approve.

22.12(4) Prior to submitting an application to become a senior judge, the judge, the chief judge of the district, the district court administrator, and the state court administrator may meet and discuss the judge's potential assignment together with the scope and parameters of the senior judge's service. If

the judge decides to apply for senior status, the judge can request the supreme court to give that judge a preliminary determination as to whether the supreme court will approve the judge's application.

22.12(5) The supreme court, in ruling on an application for senior status, including reappointment of an applicant to an additional term, may consider the following factors:

- a. The applicant's demonstration of a willingness and ability to undertake and complete all assigned work during the applicant's service as a judge or a senior judge.
- b. The recommendation of the chief judge and court administrator made in consultation with other judges from the district, in the district where the judge has served.
- c. The result of the most recent Iowa State Bar Association judicial performance evaluation.
- d. The applicant's monthly rule 22.10 reports.
- e. The applicant's agreement to perform duties as scheduled and assigned by the chief judge of the district, by an appellate court where the senior judge is assigned, or by the state court administrator.
- f. The applicant's plans, if any, to regularly spend time or reside out-of-state.
- g. The applicant's work or plans to work as a mediator, arbitrator, or provider of other alternative dispute resolution services.

22.12(6) A person who files an election to become a senior judge any time after the date of retirement, pursuant to Iowa Code section 602.9203, shall file written evidence with the clerk of the supreme court that the person has not engaged in the practice of law between the person's date of retirement and date of senior judge election.

22.12(7) An applicant for appointment to become a senior judge or a senior judge who applies for reappointment to an additional term shall provide evidence to the satisfaction of the supreme court that the applicant or senior judge does not suffer from a physical or mental disability or an illness that would substantially interfere with the performance of duties agreed to under this rule. Evidence shall include:

- a. A statement of ability to serve by the applicant and a written opinion of a doctor of medicine or doctor of osteopathic medicine and surgery.
- b. Prior to or following appointment or reappointment, a judge or senior judge must provide the court with additional information about the senior judge's physical and mental health and authorization for the release of medical information upon request.

22.12(8) A senior judge may only serve for a total period of six years. In any event, a senior judge shall cease holding office when the senior judge reaches 78 years of age. To be eligible for consideration, a senior judge must file an application for reappointment within 30 days prior to the expiration of the senior judge's term. The six-year-term-of-service limitation is effective January 1, 2018, but it will not apply to judges who have 20 years of service prior to January 1, 2018.

22.12(9) At the end of each calendar quarter, a senior judge shall file a report with the clerk of the supreme court indicating the dates on which the senior judge performed judicial or other assigned duties and the nature of the duties performed or the name of the cases over which the judge presided on each date of service. A senior judge assigned to a judicial district shall provide a copy of the report to the chief judge and the district court administrator. A senior judge assigned to an appellate court shall provide a copy of the report to the chief judge of the court of appeals or the chief justice, whichever is appropriate, and to the state court administrator. For purposes of this rule, a calendar quarter is a three-month period in the one-year period that commences on the date a retired judge becomes a senior judge and continues for each successive one-year period while the judge continues to be a senior judge.

22.12(10) Senior judges and applicants for appointment and reappointment to the senior judge program must provide information and reports required by this section on forms approved by the supreme court. The court administrator may require a senior judge to submit a statement of ability to serve by the senior judge and a written opinion of a doctor of medicine or doctor of osteopathic medicine and surgery.

22.12(11) The following rules shall apply to senior judges, retired judges assigned to temporary judicial duties pursuant to Iowa Code section 602.1612, and retired senior judges assigned to temporary judicial duties pursuant to section 602.1612 who wish to engage in mediation, arbitration, or other forms of alternate dispute resolution:

- a. A judge covered by this rule shall not act as an arbitrator, mediator, or provider of other forms of alternate dispute resolution while assigned to judicial service or when such action will interfere with an assignment to judicial service. A judge covered by this rule shall not use the title "senior judge" or the title "judge" in any form while acting as an arbitrator or mediator.

b. A senior judge shall disclose to the parties if the senior judge has mediated a dispute involving any party or any party's insurer, lawyer, or law firm involved in a case before the senior judge, and any negotiations or agreements for the provision of mediation services between the senior judge and any party or any party's insurer, lawyer, or law firm to a case before the senior judge. A senior judge shall not preside over any case involving a party or a party's insurer, lawyer, or law firm that is using or negotiating to use the senior judge as a mediator, or has used or agreed to use the senior judge as a mediator in the past two years. A senior judge shall not serve as a mediator in any case in which the judge is currently presiding. A senior judge shall not mediate any dispute that is filed in or could be venued or filed in the judicial district or appellate court in which the judge serves. These restrictions cannot be waived by consent of the parties or lawyers. For purposes of this section, mediation includes arbitration and other forms of alternate dispute resolution.

c. At the end of each calendar quarter, a senior judge who has engaged in private mediation or dispute resolution activities during the quarter shall file a report with the clerk of the supreme court. The senior judge shall report the date or time period when the mediation occurred, the county where the mediation occurred, the county in which the dispute arose, the names of the parties, and the names of the lawyers and insurers, if any, involved in the mediation. A senior judge assigned to a judicial district shall provide a copy of the report to the chief judge and to the district court administrator. A senior judge assigned to an appellate court shall provide a copy of the report to the chief judge of the court of appeals or the chief justice, whichever is appropriate, and to the state court administrator. For purposes of this rule, a calendar quarter is a three-month period in the one-year period that commences on the date a retired judge becomes a senior judge and continues for each successive one-year period while the judge continues to be a senior judge.

[Court Order December 17, 1996, effective January 2, 1997; November 9, 2001, effective February 15, 2002; February 27, 2008; October 31, 2008, effective January 1, 2009; April 30, 2010, effective May 3, 2010; November 18, 2016, effective March 1, 2017]

Rule 22.13 Service by retired judges. No retired judge or retired senior judge shall be eligible for temporary service under the provisions of Iowa Code section 602.1612 after reaching the age of 78. [Court Order September 30, 1987; November 9, 2001, effective February 15, 2002]

Rule 22.14 Judicial vacation.

22.14(1) Supreme court justices, court of appeals judges, district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges are entitled to 27 working days of vacation per calendar year. After 15 years of service with the judicial branch, supreme court justices, court of appeals judges, district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges are entitled to 32 working days of vacation per calendar year.

Vacation schedules of district judges, district associate judges, full-time associate juvenile judges, and full-time associate probate judges shall be coordinated through the office of the chief judge of the district. The chief judge shall cause a record to be kept of the amount of vacation taken by each judicial officer in the district. The number of vacation days shall be prorated during the calendar years a judicial officer begins and separates from judicial service.

No more than 32 working days of accrued, unused vacation from a prior year may be carried into a calendar year. Separation from judicial office shall cancel all unused vacation time. No compensation shall be granted for unused vacation time remaining at the time of separation.

22.14(2) Schedules for judicial magistrates should be arranged by the chief judge of each district to accommodate a reasonable vacation period; however, a judicial magistrate shall not be entitled to any specific vacation days for which compensation may be granted, nor may compensation be granted for days not taken prior to separation from judicial service.

[Court Order May 20, 1980; May 23, 1985, effective August 1, 1985; September 18, 1992, effective January 2, 1993; July 26, 1996; November 9, 2001, effective February 15, 2002; August 29, 2002; November 22, 2004, effective January 1, 2005; June 2, 2023]

Rule 22.15 Quasi-judicial business.

22.15(1) Each supreme court justice, court of appeals judge, district judge, district associate judge, full-time associate juvenile judge, and full-time associate probate judge may take up to ten working days per calendar year for the purpose of quasi-judicial business. This right is subject to the ability of the chief judge of each district to make necessary scheduling adjustments to accommodate requests.

The ten days shall be prorated during the calendar years a judicial officer begins and separates from judicial service. The chief justice of the supreme court may authorize exceptions to this rule.

22.15(2) “Quasi-judicial business” includes teaching, speaking, attending related educational programs, courses or seminars, and those duties specified in rule 22.16(5)(b)(8) and rule 22.16(5)(b)(13) but does not include time spent on other “official duties” enumerated in rule 22.16(5)(b), or teaching judicial branch educational programs when prior approval is obtained from the chief judge of the appropriate judicial district and chief justice of the supreme court.

[Court Order May 20, 1980; May 23, 1985, effective August 1, 1985; June 28, 1985, effective July 1, 1985; October 24, 1985, effective November 1, 1985; July 26, 1996; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.16 Preaudit travel claims of judiciary — definitions. As used in this rule and rules 22.17 through 22.21:

22.16(1) “Court employee” or “employee of the judicial branch” means an officer or employee of the judicial branch except for a judicial officer or a court reporter.

22.16(2) “Court reporter” means every full-time or temporary court reporter compensated by the judicial branch pursuant to Iowa Code section 602.1502.

22.16(3) “Judicial officer” means every justice, judge, district associate judge, senior judge, associate juvenile judge, associate probate judge, judicial hospitalization referee, and magistrate, appointed to serve in the state of Iowa.

22.16(4) *Official domicile.*

a. “Court employee’s official domicile” means the work location to which that court employee is assigned. Transportation costs between any such employee’s permanent home and that employee’s official domicile are not reimbursable.

b. “Judicial officer and court reporter’s official domicile.” By December 15 of each year, the chief judge of the judicial district and the district court administrator shall designate a courthouse as an official domicile for each judicial officer and court reporter. The official domicile of a judicial officer and a court reporter shall be the courthouse in the county in which the judicial officer or court reporter resides unless the chief judge of the judicial district and the district court administrator agree to another location based on factors such as the percent of time spent working at another courthouse, court scheduling, or any other factor that should influence the selection of the domicile. Court reporters may reside outside of the judicial district in which they serve. If a court reporter resides outside of the judicial district in which the court reporter serves, the chief judge of the judicial district and the district court administrator shall designate the court reporter’s official domicile in a county adjacent to the judicial district in which the court reporter resides. If there is a change in any of the factors that affect the court reporter’s domicile location during the fiscal year, the chief judge of the judicial district and the district court administrator may change the court reporter’s official domicile. Notification of official domicile must be filed by the district court administrator with the state court administrator’s office by December 15 of each year.

22.16(5) “Official duties” means the following:

a. “Official duties” of a court reporter or court employee are the responsibilities and functions contained in the judicial branch job description for the position the individual holds.

b. “Official duties” of a judicial officer are the responsibilities and functions customarily and usually pertaining to the office of judge or referee. Subject to Iowa Code section 602.1509, and this rule and rules 22.17 through 22.21, official duties include the following:

- (1) Attendance at court sittings and performance of the other work of the court.
- (2) Attendance at judicial conferences called under Iowa Code section 602.1203.
- (3) Attendance by district judges, district associate judges, associate juvenile judges, associate probate judges, and judicial magistrates at district judicial conferences called by chief judges of the district court.
- (4) Attendance to give testimony before committees of the general assembly, at the committees’ request.
- (5) Attendance at meetings of judicial nominating commissions as the judicial member of the commission.
- (6) Performance of functions as a member of committees or commissions appointed by the supreme court, the chief justice, or a chief judge of the district court on court procedure, administration, or structure.
- (7) Attendance at meetings when designated by the chief justice to represent the judicial branch.

(8) If approved in advance by the chief justice: attendance to serve as judge at moot court proceedings for Iowa Law School and Drake Law School not to exceed one attendance per calendar year by any one attending judge; attendance at legal or judicial educational and training sessions and courses outside the state; and attendance at meetings of national associations of chief justices, appellate court justices and judges, trial court judges, and judicial officers of limited jurisdiction.

(9) Performance by chief judges of the district court of their administrative functions.

(10) Attendance by members of the judicial council at meetings of the council and of its committees.

(11) Performance by liaison justices of their functions as such within their assigned judicial districts.

(12) Attendance by district associate judges and judicial magistrates at the Iowa judicial magistrates schools of instruction and traffic court conferences.

(13) Performance of functions for which reimbursement of travel expense is authorized by any other Iowa statute or rule of the supreme court.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002; Supervisory Order August 10, 2004; Court Order August 31, 2020, effective September 1, 2020]

Rule 22.17 Reimbursable travel.

22.17(1) *In-state.*

a. Expenses incurred for in-state travel outside the judicial district, except expenses incurred by juvenile court officers in the discharge of their official duties, are not reimbursable unless prior approval for the travel has been given by the chief justice or the chief justice's designee on a prescribed form. In-state travel for juvenile court officers shall include travel within a 100-mile radius outside the borders of the state of Iowa. Expenses incurred for in-state travel outside the judicial district by juvenile court officers in the discharge of their official duties are not reimbursable unless approval for the travel has been given by the chief juvenile court officer of the judicial district.

b. Reimbursement under this chapter for in-state travel expenses incurred by juvenile court officers in the discharge of their official duties shall be provided from funds administered by the judicial branch or pursuant to Iowa Code section 232.141, as applicable.

22.17(2) *Out-of-state.*

a. Requests to attend conferences, meetings, training courses, programs, and similar gatherings which require out-of-state travel shall be submitted to the chief justice or the chief justice's designee on a prescribed form at least two weeks prior to the proposed departure date. No reimbursement of out-of-state expenses shall be made unless the trip has received prior approval of the chief justice or the chief justice's designee except as otherwise provided in this rule.

b. Reimbursement for expenses incurred for out-of-state travel by juvenile court officers in the discharge of their official duties relating to court-ordered transportation and placement shall be allowed if oral or written approval is given by the chief juvenile court officer of the judicial district and the chief justice or the chief justice's designee at any time prior to the proposed departure.

c. Reimbursement under this chapter for out-of-state travel expenses incurred by juvenile court officers in the discharge of their official duties shall be provided from funds administered by the judicial branch or pursuant to Iowa Code section 232.141, as applicable.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.18 Transportation.

22.18(1) *Route and conveyance.* Transportation shall be by the usually traveled route. Mileage shall be based on mileage published by the department of transportation. Reimbursement shall be limited to the most economical means of conveyance available.

22.18(2) *Mileage — personal car.* Judicial officers and court employees shall be reimbursed their mileage expense when required in the discharge of official duties to travel outside their official domicile. Reimbursement shall be for the miles driven from the official domicile or employee's residence, whichever is less, to the work location. In no instance shall employees and judicial officers be reimbursed for more than actual miles driven. Carpooling is recommended whenever possible. The allowance for use of a private automobile on official judicial branch business shall be established by order of the supreme court and shall be presumed to include all automobile expenses. Additionally, judicial officers and court employees shall be reimbursed their mileage expense for travel required in the discharge of official duties within the continuous metropolitan area of their

official domicile. Travel directly between employees' and judicial officers' residences and their official domiciles will not be reimbursed.

22.18(3) *Transportation other than private automobile.* Expenses for transportation other than private automobile are reimbursed on an actual incurred cost basis and must be claimed accompanied by an original receipt.

22.18(4) *Reimbursement of parking.* Reimbursement for parking expense is allowable when mileage is claimed. Receipts for parking, taxi and/or other transportation expenses, are not required when the total amount, per day, does not exceed \$15. Receipts must be attached to the travel voucher for employees to receive reimbursement for the above expenses in excess of \$15 per day.

[Court Order November 9, 2001, effective February 15, 2002; August 29, 2002; Supervisory Order August 10, 2004; Court Order August 31, 2020, effective September 1, 2020]

Rule 22.19 Lodging.

22.19(1) *In-state.*

a. Lodging expense is reimbursed as incurred when a judicial officer, court reporter, or court employee is required, in the discharge of official duties, to leave the county of that person's official domicile. The name of the establishment where the expense is incurred shall be indicated on the claim form and the original receipt shall be attached. The single room rate is to be noted on the receipt when other than a single room was charged. Special rates for judicial officers, court reporters, and court employees are available at many motels and hotels in the state. An identification card identifying the holder as a judicial officer, court reporter, or court employee is usually necessary. Identification cards are available upon request from the office of the state court administrator. The allowance for lodging shall be the actual cost, but not exceeding \$80, plus applicable taxes, per day.

b. Judicial officers and court employees are to seek lodging facilities whose rates are within those prescribed in this rule or a reasonable explanation must be noted in the expense claim in order to be considered for reimbursement over the defined maximum rates. (*See* rule 22.21(6)). When seeking overnight lodging judicial officers and court employees should request the lowest of "state," "government," or "commercial" rates, as many facilities offer these "special" rates which a state employee can and should obtain.

22.19(2) *Out-of-state.* Lodging expense is not limited outside the state, but the incurred expenditures are to be reasonable. Lodging for approved out-of-state travel shall be reimbursed for the night preceding and the night of the ending date of the authorized meeting.

[Court Order November 9, 2001, effective February 15, 2002; June 16, 2006, effective July 1, 2006; January 4, 2012; July 19, 2021, effective August 1, 2021]

Rule 22.20 Meals.

22.20(1) *In-state.* Incurred meal expense shall be reimbursed at "reasonable and necessary" cost when a judicial officer, court reporter, or court employee is required, in the discharge of official duties, to leave the county of that person's official domicile. A maximum of \$37 per day may be reimbursed for meals, as outlined below; however, if departure from the official domicile is before 6 a.m., a notation must be included on the Travel Voucher. At the return of the trip, if arrival back at the official domicile is after 7 p.m., a notation to this effect must be included on the Travel Voucher. Meal allowance for travel will be as follows:

a. Departure before 6 a.m. and return to official domicile after 7 p.m. may be reimbursed the actual cost for breakfast, lunch, and dinner up to a maximum of \$37.

b. Departure before 6 a.m. and return to official domicile before 7 p.m. may be reimbursed the actual cost for breakfast and lunch up to a maximum of \$18.

c. Departure after 6 a.m. and return to official domicile after 7 p.m. may be reimbursed the actual cost for lunch and dinner up to a maximum of \$29.

d. Departure after 6 a.m. and return to official domicile before 7 p.m. may be reimbursed the actual cost for lunch up to a maximum of \$10.

22.20(2) *Out-of-state.* Meal expenses are not limited out-of-state, but the incurred expenses are to be reasonable. When in travel status, lunch and dinner the day preceding the meeting, and breakfast and lunch the day after a meeting, are reimbursable expenditures.

22.20(3) *Overnight lodging required.* The provisions for meal reimbursement in rules 22.20(1) and 22.20(2) apply only when the travel includes overnight lodging.

[Court Order November 9, 2001, effective February 15, 2002, May 8, 2006; July 18, 2007, effective August 1, 2007; February 21, 2019, effective March 1, 2019]

Rule 22.21 Miscellaneous travel provisions.

22.21(1) *Continuing education expenses.* Provisions relating to “Official duties,” “Travel,” “Transportation,” “Lodging” and “Meals” as used in rules 22.16 through 22.21 shall not be applicable to expenses for continuing education requirements for court reporters or court employees, unless otherwise ordered by the chief justice or the chief justice’s designee.

22.21(2) *Examining Board expenses.* Board of Law Examiners and Shorthand Reporters Examiners will be reimbursed actual and necessary expenses not to exceed one and one-half times the reimbursement allowances provided in rules 22.19 and 22.20.

22.21(3) *Living outside official domicile.* When additional expense is incurred by reason of a court employee maintaining a permanent home in a city, town, or metropolitan area other than that person’s official domicile, unless otherwise determined by the state court administrator, the additional expense is not reimbursable.

22.21(4) *Registration fees.* Registration fees for authorized meetings and conferences are an allowable expense when accompanied by receipt.

22.21(5) *Claim preparation.*

a. All claims shall be typewritten, or printed in ink, and signed by the claimant. Receipts for lodging, public transportation, and any authorized miscellaneous expenses shall be attached to the upper left-hand corner of the form. Claim for reimbursement for out-of-state travel shall be submitted for payment upon completion of the trip.

b. Beginning March 1, 2019, any request for reimbursement of travel expenses must be submitted within 60 days of completion of travel.

c. If reimbursement is sought pursuant to Iowa Code section 232.141, the district court administrator shall process the claim per rules and procedures of the applicable county and the department of human services.

22.21(6) *Exceptions.* The chief justice or the chief justice’s designee may grant exceptions to rules 22.16 through 22.21 as necessitated by unusual circumstances.

22.21(7) *Refreshments.* The cost of refreshments served at meetings will not be reimbursed, except for educational programs sponsored and authorized by the chief justice or the chief justice’s designee.

22.21(8) Form. A written request for travel authority from the chief justice or the chief justice's designee pursuant to rules 22.16 through 22.21 shall be in substantially the following form:

JUDICIAL BRANCH
REQUEST FOR TRAVEL AUTHORITY

<p>_____ Outside of Iowa _____ In-state, out of Judicial District</p> <p>Name _____ Title _____ Judicial District _____</p> <p>DEPARTURE FROM:</p> <p>TRAVEL DATES (ROUND TRIP):</p> <p>MODE OF TRAVEL:</p> <p>PURPOSE OF TRAVEL: (INCLUDE NATURE AND DATES OF MEETING OR OTHER PURPOSE OF TRAVEL AND JUSTIFICATION FOR PROFESSIONAL PURPOSES)</p> <p>ESTIMATED COST:</p> <p style="padding-left: 20px;">Transportation: Lodging: Meals: Other (Please Specify): Total:</p> <p>Anticipated Funding Source(s):</p> <p>Approved as to form:</p> <p>_____ District Court Administrator (initials) Request Approved/Denied: Request Approved/Denied:</p>	<p>Date _____</p> <p>Form to be submitted to Chief Justice of the Supreme Court or the Chief Justice's designee prior to proposed departure date. See rules 22.16 to 22.21 for applicable travel and time for submission.</p> <p>DESTINATION:</p> <p>_____ Person requesting approval _____ Supervising authority (when applicable)</p> <p>_____ Chief Judge _____ Date _____ Chief Justice _____ Date Supreme Court of Iowa (or Chief Justice's designee)</p>
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[Court Order June 11, 1981; November 30, 1981 (Received for publication January 5, 1983); June 28, 1984; June 28, 1985, effective July 1, 1985; October 3, 1985, effective October 15, 1985; May 15, 1986, effective July 1, 1986; November 20, 1986, effective December 1, 1986; July 21, 1988, effective August 1, 1988; October 12, 1989, effective November 1, 1989; November 13, 1990, effective January 2, 1991; January 17, 1991; July 12, 1991, effective July 12, 1991, for expenses on or after January 2, 1991; December 16, 1994, effective December 16, 1994; December 16, 1994, effective January 2, 1995; January 3, 1996; March 21, 1996; July 26, 1996; November 5, 1996; December 21, 1999, effective January 1, 2000; May 26, 2000, effective July 1, 2000; November 9, 2001, effective February 15, 2002; February 21, 2019, effective March 1, 2019]

Rule 22.22 Gifts.

22.22(1) Judicial officers are not subject to the provisions of this rule, but shall be subject to the gift provisions of the Iowa Code of Judicial Conduct.

22.22(2) Except as otherwise provided in this rule, an employee of the judicial branch or a member of that person's immediate family shall not, directly or indirectly, accept, receive or solicit any gift or series of gifts.

22.22(3) As used in this rule:

a. "Employee" means any employee of the judicial branch other than a judicial officer subject to the gift provisions of the Iowa Code of Judicial Conduct.

b. "Gift" means a rendering of anything of value in return for which legal consideration of equal or greater value is not given or received, if the donor is:

(1) A party or other person involved in a case pending before the donee.

(2) A party or a person seeking to be a party to any sale, purchase, lease or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, purchase, lease or contract, or if the donee assists or advises the person with authority to approve the sale, purchase, lease or contract.

(3) A person who will be directly or substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

c. "Gift" does not include:

(1) Informational material relevant to the employee's duties, such as books, pamphlets, reports, documents or periodicals, or the cost of registration for an education conference or seminar which is relevant to the employee's duties.

(2) Anything received from a person related within the fourth degree of kinship or marriage, unless the donor is acting as an agent or intermediary for another person not so related.

(3) An inheritance or bequest.

(4) Anything available or distributed to the public generally without regard to the official status of the recipient.

(5) Actual expenses of a donee for food, beverages, travel, and lodging, which is given in return for participation at a meeting as a speaker, panel member or facilitator, when the expenses relate directly to the day or days on which the donee participates at the meeting, including necessary travel time.

(6) Plaques or items of negligible resale value given as recognition for public service.

(7) Nonmonetary items with a value of \$3 or less that are received from any one donor during one calendar day.

(8) Items or services solicited by or given to a state, national or regional organization in which the state of Iowa or a political subdivision of the state is a member.

(9) Items or services received as part of a regularly scheduled event that is part of a conference, seminar or other meeting that is sponsored and directed by any state, national or regional organization in which the judicial branch is a member.

(10) Funeral flowers or memorials to a church or nonprofit organization.

(11) Gifts which are given to an employee for the employee's wedding or twenty-fifth or fiftieth wedding anniversary.

d. "Immediate family" means the spouse and minor children of an employee of the judicial branch.

22.22(4) For purposes of determining the value of an item, an individual who gives an item on behalf of more than one person shall not divide the value of the item by the number of persons on whose behalf the item is given and the value shall be the value actually received by the donee.

22.22(5) An employee of the judicial branch or the person's immediate family member, may accept a nonmonetary gift or a series of nonmonetary gifts and not be in violation of this rule if the nonmonetary gift or series of nonmonetary gifts is donated within 30 days to a public body, the state court administrator, the department of general services, or a bona fide educational or charitable organization, if no part of the net earnings of the educational or charitable organization inures to the benefit of any private stockholder or other individual.

[Court Order June 30, 1980; July 31, 1987, effective August 3, 1987; December 29, 1992, effective January 1, 1993; August 19, 1993; November 9, 2001, effective February 15, 2002; April 30, 2010, effective May 3, 2010]

Rule 22.23 Honoraria.

22.23(1) An official or employee of the judicial branch shall not seek or accept an honorarium.

22.23(2) As used in this rule:

a. "Honorarium" means anything of value that is accepted by, or on behalf of, an official or employee of the judicial branch as consideration for an appearance, speech or article if the donor is:

(1) A party or other person involved in a case pending before the donee.

(2) A party or person seeking to be a party to any sale, lease, or contract involving the judicial branch or any of its offices, if the donee has authority to approve the sale, lease, or contract or if the donee assists or advises the person with authority to approve the sale, lease, or contract.

(3) A person who will be directly and substantially affected by the performance or nonperformance of the donee's official duties in a way that is greater than the effect on the public generally or on a substantial class of persons to which the donor belongs as a member of a profession, occupation, industry or region.

b. "Honorarium" does not include:

(1) Actual expenses of a donee for food, beverages, travel, lodging and registration which is given in return for participation at a meeting as a speaker, panel member or facilitator when the expenses relate directly to the day or days on which the donee participates at the meeting, including necessary travel time.

(2) Payment to an employee for services rendered as part of outside employment which has been approved pursuant to the department's personnel policies, if the payment is commensurate with the actual activity or services rendered and not based upon the employee's position within the department, but, rather, because of some special expertise or other qualification.

(3) Payment to a judge or magistrate for officiating and making return for a marriage pursuant to rule 22.29.

(4) Payment to a judge or senior judge for instruction at an accredited education institution, if the payment is commensurate with the actual activity or services rendered and not based upon the judge's official position.

(5) Payment to a part-time judge for services rendered as part of a bona fide business or profession in which the judge is engaged, if the payment is commensurate with the actual activity or services rendered and not based upon the judge's official position.

(6) Payment to a senior judge for services rendered as an arbitrator or mediator, if the payment is commensurate with the actual activity or services rendered and not based upon the senior judge's official position. [Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002]

Rule 22.24 Interests in public contracts.

22.24(1) A full-time official or employee of the judicial branch shall not sell any goods or services to any state agency.

22.24(2) As used in this rule, "services" does not include any of the following:

a. Instruction at an accredited education institution by a judge, senior judge or magistrate if permitted as a quasi-judicial or extrajudicial activity pursuant to the Code of Judicial Conduct or by an employee as part of outside employment which has been approved pursuant to the judicial branch's personnel policies.

b. The preparation of a transcript by an official court reporter.

[Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.25 Services against the state.

22.25(1) No official or employee of the judicial branch shall receive, directly or indirectly, or enter into an agreement, express or implied, for any compensation, in whatever form, for the appearance or rendition of services against the interest of the state in relation to any case, proceeding, application, or other matter before any state agency, any court of the state of Iowa, any federal court, or any federal bureau, agency, commission or department.

22.25(2) As used in this rule, "appearance or service against the interest of the state" means an appearance or service which conflicts with a person's duties or employment obligations owed to the state.

[Court Order December 29, 1992, effective January 1, 1993; November 9, 2001, effective February 15, 2002]

Rule 22.26 Personal disclosure.

22.26(1) Each official shall file a statement of personal financial disclosure in the manner provided in this rule. The disclosure must be filed even if there is no financial information to report. The disclosure must contain:

a. A list of each business, occupation, or profession (other than employment by the judicial branch) in which the person is engaged and the nature of that business, occupation, or profession, unless already apparent.

b. A list of any sources of income (other than income from employment by the judicial branch) if the source produces more than one thousand dollars annually in gross income. "Sources of income" includes those sources which are held jointly with one or more persons and which in total generate more than \$1000 of income. "Jointly" means the ownership of the income source is undivided among the owners and all owners have one and the same interest in an undivided possession, each with full rights of use and enjoyment of the total income. Sources of income that are co-owned but with ownership interests that are legally divisible, without full rights of use or enjoyment of the total income, need not be reported unless the person's portion of the income from that source exceeds \$1000. For purposes of this rule, income earned solely by the spouse of a person subject to reporting is not income to that person and need not be reported as a source of income.

Sources of income listed pursuant to this rule may be listed under any of the following categories:

- (1) Securities.
- (2) Instruments of financial institutions.
- (3) Trusts.
- (4) Real estate.
- (5) Retirement systems.
- (6) Other income categories specified in state and federal income tax regulations.

22.26(2) The statement of personal financial disclosure shall be reported on forms prescribed by the state court administrator and shall be filed with the clerk of the supreme court on or by the first day of April each year or no later than 30 days after assuming office. The statement of personal financial disclosure forms shall be retained for a period of two years.

[Court Order December 29, 1992, effective January 1, 1993; Statement required April 1, 1994; November 9, 2001, effective February 15, 2002; November 22, 2004; December 22, 2022]

Rule 22.27 Definitions. As used in rules 22.22 to 22.26:

22.27(1) "*Employee*" means a paid employee of the state of Iowa, including independent contractors, and does not include a member of a board, commission, or committee.

22.27(2) "*Official*" means an officer of the judicial branch performing judicial functions, including an associate juvenile judge, a magistrate or referee, an associate probate judge, and the state court administrator, and does not include a member of a board, commission, or committee.

[Court Order December 29, 1992, effective January 1, 1993; July 26, 1996; November 9, 2001, effective February 15, 2002]

Rule 22.28 Transcripts — rates for transcribing a court reporter's official notes.

22.28(1) Pursuant to Iowa Code section 602.3202, the maximum compensation of shorthand reporters for transcribing their official notes shall be as follows:

a. Ordinary transcript (a transcript of all or part of the proceedings) - \$3.50 per page for the original and one copy to the party ordering the original and 50 cents per page for each additional copy.

b. Expedited transcript (a transcript of all or part of the proceedings to be delivered within seven calendar days after receipt of an order) - \$4.50 per page for the original and one copy to the party ordering the original and 75 cents per page for each additional copy.

c. Daily transcript (a transcript of all or part of the proceedings to be delivered following adjournment for the day and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day) - \$5.50 per page for the original and one copy to the party ordering the original and \$1.00 per page for each additional copy.

d. Unedited transcript (an unedited draft transcript produced as a byproduct of realtime or computer aided transcription software to be delivered on electronic media or paper) - \$2.25 per page for the original and 25 cents per page for each copy. The unedited disk or printed draft transcript shall not be certified and may not be used to contradict the official district court transcript.

e. Realtime transcript (an unedited draft transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings for viewing and retention) -

\$2.75 per page for the original and \$1.00 per page for each copy. The unedited text of the proceedings shall not be certified and may not be used to contradict the official district court transcript. Litigants who order realtime services, and subsequently order an original certified transcript of the same proceeding, will not receive credit toward the purchase cost of the certified transcript. Only certified realtime reporters may be compensated for such transcripts.

22.28(2) These rates of compensation shall apply to each separate page of transcript even if they are produced in a condensed transcript format.

22.28(3) These rates of compensation shall be the same whether the transcript is produced in an electronic or paper format. A certified transcript may be sold in an electronic format only if a paper transcript is produced, certified, and filed with the clerk of court for the records of the court or delivered to the custodial attorney. No additional charge is permitted for an ASCII disk or other form of electronic media when it accompanies a paper transcript.

22.28(4) Court reporters are only required to prepare ordinary transcripts. They may, but are not required to, produce the types of transcripts described in rule 22.28(1)(b-e).

[Court Order March 15, 2007; November 9, 2009; May 27, 2010; April 4, 2012]

Rule 22.29 Marriage fees received by a judicial officer.

22.29(1) A judge or magistrate may charge a fee for officiating and making return for each marriage solemnized at a time other than regular judicial working hours and at a place other than a court facility. This fee shall not exceed the sum of \$200.

22.29(2) A judge or magistrate may charge the parties to the marriage for expenses incurred in solemnizing the marriage. In no event shall the expenses charged exceed the maximum amounts set by rules 22.16 through 22.21.

22.29(3) The phrase “regular judicial working hours,” for purposes of this rule, shall mean 8 a.m. to 5 p.m. Monday through Friday (except for legal holidays) for all judicial officers except magistrates, and for them the schedule fixed by the chief judge of the judicial district.

[Court Order July 1, 1983; received for publication April 2, 1984; September 17, 1984; Court Order July 7, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; March 16, 2006]

Rule 22.30 Use of signature facsimile.

22.30(1) In all instances where a law of this state requires a written signature by a justice of the supreme court, judge of the court of appeals, district judge, district associate judge, judicial magistrate, clerk of the district court, county attorney, court reporter, associate juvenile judge, associate probate judge, judicial hospitalization referee, probate referee, or law enforcement officer, any such officer may use, or direct and authorize a designee to possess and use, a facsimile signature stamp bearing that officer’s signature or an electronically scanned signature of the officer pursuant to the provisions of this rule.

22.30(2) Whether used personally by the officer whose signature it bears or by a designee of that officer, a facsimile signature stamp or electronically scanned signature must contain a true facsimile of the actual signature of that officer. The stamp or electronically scanned signature shall be kept in the secure possession of the officer or that officer’s designee at all times, accessible only to the officer or the officer’s designee.

22.30(3) An officer directing and authorizing a designee to possess and use a facsimile signature stamp or electronically scanned signature bearing that officer’s signature shall execute a written designation of the authorization. The designation shall be addressed to the designee, by name or title, and shall specifically identify each category of documents to which the designee is authorized to affix the stamp or electronically scanned signature. The original of the written designation shall be filed with the district court administrator in the judicial district within which the officer is located; appellate judges and justices shall file their original designations with the clerk of the supreme court. A copy of the written designation shall be retained by the officer and by the designee.

22.30(4) A written designation made by an officer pursuant to rule 22.30(3) may be revoked, in writing, at any time by the officer who executed it, and shall stand automatically revoked upon that officer’s ceasing to hold the office for any reason. A written revocation of designation shall be addressed to the former designee, in the same manner as the original designation. A copy of the written revocation shall be retained by the officer and by the former designee. A facsimile signature stamp in the possession of a former designee shall be forthwith returned to the officer who issued it, if available, or shall be destroyed by the former designee. A revoked electronically scanned signature shall be deleted.

22.30(5) Nothing contained in this rule shall abrogate any provision of Iowa Code section 4.1(39). [Court Order May 17, 1984; July 25, 1986, effective September 2, 1986; June 22, 1987, effective August 3, 1987; July 26, 1996; November 9, 2001, effective February 15, 2002; June 3, 2009; March 9, 2010]

Rule 22.31 Juror compensation.

22.31(1) Compensation for a juror's first seven days of attendance and service on a case shall be \$30 per day, including attendance required for the purpose of being considered for service.

22.31(2) When a juror's attendance and service on a case exceed seven days, the rate of compensation shall be \$50 for each day after the seventh day.

22.31(3) For purposes of juror compensation, the days of attendance and service do not have to be consecutive.

[Court Order September 25, 2006; October 22, 2007]

Rule 22.32 Magistrates — annual school of instruction. Each magistrate shall be required to attend a judicial branch school of instruction prior to taking office and annually thereafter unless excused by the chief justice for good cause. A magistrate appointed to fill a vacancy shall attend the first school of instruction that is held following the appointment, unless excused by the chief justice for good cause.

[Court Order September 23, 1985, effective October 15, 1985; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.33 Nepotism. No judicial officer or employee of the judicial branch shall appoint, or continue to employ any person related by consanguinity or affinity within the third degree. This prohibition shall apply to any employment where a direct supervisory relationship exists between the judicial officer or employee and the person supervised.

In the event an employment situation exists within the judicial branch which is consistent with Iowa Code chapter 71 but inconsistent with this rule, the supervisor shall terminate the employment relationship prior to March 15, 1986. Every effort shall be made by the judicial branch to relocate within the branch any individual who is dismissed as a result of this rule.

[Court Order January 22, 1986, effective February 3, 1986; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 22.34 Judicial branch appointments. It is a policy of the judicial branch that all boards, commissions, and committees to which appointments are made or confirmed by any part of the judicial branch shall reflect, as much as possible, a gender balance. If there are multiple appointing authorities for a board, commission, or committee, they shall consult with each other to avoid contravention of this policy.

[Court Order June 30, 1986, effective July 1, 1986; November 9, 2001, effective February 15, 2002]

Rule 22.35 Service copies.

22.35(1) After April 1, 1988, the clerk of court shall not make a part of the court file, or otherwise retain in the clerk's office, service copies of pleadings, orders, or writs.

22.35(2) "Service copy" means the copy of the pleading, order, or writ attached to either the return of service or the document proving service.

22.35(3) All returns of service shall specify what pleading, order, or writ was served. Returns of service of an original notice shall certify that a copy of the petition was served with the notice pursuant to Iowa R. Civ. P. 1.302.

[Court Order January 29, 1988, effective March 1, 1988; November 9, 2001, effective February 15, 2002]

Rule 22.36 Paper size and requested copies.

22.36(1) Paper size. All pleadings and other papers filed in the Iowa district courts and their small claims divisions shall be on 8½ inch by 11 inch size white paper of standard weight, with a margin of at least one inch at the top of each page. Exhibits attached to pleadings shall be of the same size as pleadings, reduced from their original size if necessary. Original documents, including wills, bonds, notes, foreclosed mortgages, and real estate contracts, may be filed on longer paper. Uniform Citation forms and other court forms smaller than 8½ by 11 inches shall be accepted for filing. The clerks of court shall not accept filings which do not substantially comply with this rule.

22.36(2) Requested copies. If counsel or any party requests file-stamped copies of pleadings or other papers to be returned by mail, an extra copy and a self-addressed, postage prepaid envelope, large enough to accommodate the copy being returned, must be included with the filing. No copy shall be returned by mail unless this rule is followed.

[Court Order May 12, 1989, effective July 3, 1989; March 20, 1991, effective July 1, 1991; November 9, 2001, effective February 15, 2002]

Rules 22.37 and 22.38 Reserved.

Rule 22.39 Staffing offices of clerks of court. The supreme court shall allocate staff to the clerk of court office in each county. The court shall take into account workload and availability of funds for state court operations. The court shall set the business hours of each office. To facilitate case processing, the court may allow each office of the clerk of court to operate without being open to the public for a portion of each day the office is open for business to enable an office to process its work without interruption.

[Court Order November 12, 2009]

Rule 22.40 Public business hours of offices of clerks of court. For purposes of Iowa Code section 4.1(34), the word “day” means the period of time defined by the public business hours of an office of the clerk of court as established by order of the supreme court. If the supreme court has by order closed an office of the clerk of court for an entire day, that day shall be treated as a holiday or a weekend. Nothing in this rule shall prevent a party from filing with the court pursuant to Iowa Rule of Civil Procedure 1.442(5).

[Court Order November 12, 2009]

CHAPTERS 64 TO 69

Reserved

CHAPTER 70
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CHAPTER 70

IOWA RULES OF JUVENILE COURT SERVICES DIRECTED PROGRAMS

PREAMBLE

[1] Iowa Code section 232.192 (as enacted by HF 2507, effective July 1, 2023) provides that juvenile court services shall administer “early intervention and follow-up programs.” Historically, the legislature has appropriated funds for such programs using the term “juvenile delinquent graduated sanctions services.” These rules are intended to effectuate Iowa Code section 232.192 and apply to the appropriation historically termed “juvenile delinquent graduated sanctions services.”

[2] These rules prescribe services for eligible children from funds appropriated specifically for juvenile court services directed programs. The state court administrator, the director of juvenile court services, and the chief juvenile court officers have primary responsibility for the administration of early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered services for eligible children. These funds may also be used to enhance the education and performance of those employees who are directly involved with the clients and their programs.

[3] These rules, pursuant to the authority granted in the Iowa Code and annual appropriations acts, prescribe the relationship between the state court administrator, the director of juvenile court services, and the chief juvenile court officer from each judicial district in the administration of the funds for the juvenile court services directed programs. These rules establish the criteria for the allocation of funds and the procedures for the administration, eligibility, contracting, billing and payment, application, and service delivery for early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered services. In addition, these rules detail expenses that are eligible for reimbursement from the noncontracted/court-ordered service allocation as well as the expenses that are ineligible for reimbursement. The lists are intended to be exhaustive.

[4] The early intervention and follow-up programs/graduated sanctions services are services to be provided to children adjudicated delinquent and to children who have been referred to juvenile court services for a delinquency violation or who have exhibited behaviors that put them at risk of a juvenile delinquency referral. The services are directed to enhance personal adjustment to help the children transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism. The services are provided in the child’s home community whenever feasible. These services may be provided in an individual or group setting and can include, but are not limited to, supervised educational support and treatment and outreach services to eligible children who are experiencing social, behavioral, or emotional problems that put them at risk of involvement with the juvenile justice system. This mix of services allows the flexibility to tailor treatment and services to meet the specific needs of the child. A program for a child may be funded from multiple sources, but the funding sources may not duplicate or overlap. The components and activities shall be outlined in the contract. Services offered may provide individualized and intensive interventions to assist a child in establishing positive behavior patterns and to help the child maintain accountability in a community-based setting.

DIVISION I

DEFINITIONS

Rule 70.101 Definitions.

70.101(1) *At risk.* “At risk” means that a child has been referred to juvenile court services for a delinquency violation or has exhibited behaviors likely to result in a juvenile delinquency referral.

70.101(2) *Audit.* “Audit” means an official examination and verification of financial accounts and records by the office of the auditor of state.

70.101(3) *Case file.* “Case file” means an electronic file that includes referral information, information generated during assessment, documentation of court proceedings, other eligibility determinations, case plans, and case reports, including quarterly progress reports. Case files of providers also include records of provider–child contact that document provision of services.

70.101(4) *Chief juvenile court officers.* “Chief juvenile court officers” are defined under Iowa Code section 602.1217.

70.101(5) *Child.* “Child” means a person under 18 years of age. “Child” also includes a person up to 19 1/2 years of age when (1) the person is adjudicated delinquent and the dispositional order is entered while the person is 17 years of age (in which case, the order terminates 18 months after the date of disposition), or (2) the person, as an adult, has been transferred to the jurisdiction of the juvenile court and is adjudicated as having committed a delinquent act before becoming an adult (in which case, the dispositional order automatically terminates 18 months after the last date upon which jurisdiction could attach). Also included is a juvenile who has been adjudicated by the court to have committed a delinquent act upon the child reaching 18 years of age until the child is 21 years of age if the child and juvenile court services determine the child should remain under the guidance of juvenile court services.

70.101(6) *Contract compliance review.* “Contract compliance review” means official examination and verification of contractual and financial records conducted virtually and asynchronously. A virtual contract compliance review meets the annual contract review requirements so long as client records are available to be securely reviewed.

70.101(7) *Director of juvenile court services.* “Director of juvenile court services” means the position responsible for the day-to-day management of juvenile court services statewide initiatives, including federal programs; this position serves as a liaison with other departments and agencies.

70.101(8) *Early intervention and follow-up programs/graduated sanctions services.* “Early intervention and follow-up programs/graduated sanctions services” means services to be provided to children adjudicated delinquent and to children who have been referred to juvenile court services for a delinquency violation or who have exhibited behaviors that put them at risk of a juvenile delinquency referral. The services are directed to enhance personal adjustment to help the children transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism and to ensure community safety.

70.101(9) *Eligible child.* “Eligible child” means a child who has been adjudicated delinquent, is at risk, or has been identified by the chief juvenile court officer as eligible for early intervention and follow-up programs/noncontracted/court-ordered or juvenile delinquent graduated sanction services.

70.101(10) *Juvenile court officer.* “Juvenile court officer” means a person appointed as a juvenile court officer or a chief juvenile court officer under Iowa Code section 602.7202.

70.101(11) *Juvenile justice service plan.* “Juvenile justice service plan” means an annual plan developed by each chief juvenile court officer which accounts for expenditure of the district’s annual allocation and provision for service to the eligible children in their district.

70.101(12) *Noncontracted/court-ordered services.* “Noncontracted/court-ordered services” means the defined or specific care and treatment ordered by the court for an eligible child and for which no other payment source is available to cover the cost or the defined or specific care and treatment for an eligible child for which a service contract does not otherwise exist.

70.101(13) *On-site review.* “On-site review” means an official examination and verification of contractual and financial records conducted at the location where the clients are served, where the client and financial records are stored, or both.

70.101(14) *Provider.* “Provider” means a public agency, including a school district or government unit, or a private agency, organization, or eligible individual authorized to do business in the state. The provider is also known as the “claimant.”

70.101(15) *State court administration.* “State court administration” refers generally to positions responsible for various statewide functions, including, but not limited to, the state court administrator, director of finance, and director of juvenile court services.

70.101(16) *State court administrator.* “State court administrator” is defined under Iowa Code section 602.1101.

70.101(17) *Supportive enhancements.* “Supportive enhancements” means a category of services, real goods, or incentives matched to the risk needs of a child that support a child to reduce or eliminate delinquent or at-risk behavior.

[Court Order December 2, 2022, effective July 1, 2023]

Rules 70.102 to 70.200 Reserved.

DIVISION II
GENERAL PROVISIONS

Rule 70.201 Appropriation and allocation of funds. Pursuant to the authority granted in Iowa Code chapters 232 and 602 and the annual appropriations acts, the judicial branch, represented by the state court administrator, the director of juvenile court services, and the chief juvenile court officers, are each charged with specific responsibilities for funding, administering, and ensuring the provision of juvenile court services directed programs.

70.201(1) The funds shall be appropriated to the judicial branch for allocation by the state court administrator and the director of juvenile court services for the payment of the expenses of juvenile court services directed programs, including administration of these services.

a. The state court administrator and director of juvenile court services shall base the allocation of each district's respective portion of funds on the statewide population of children as reported in current census data.

b. The source of the census data shall be determined and agreed upon by the state court administrator and the director of juvenile court services.

70.201(2) State court administration shall allocate a set-aside amount up to, but not to exceed, 20 percent of the total appropriation for early intervention and follow-up programs/graduated sanctions services for state court administration to pay the administrative costs related to administering these allocated funds.

70.201(3) The annual budget tracking form, with estimated or actual transfers outside the judicial branch, shall be updated a minimum of twice annually.

70.201(4) The ongoing budget tracking form shall be updated monthly for all obligated costs and expenditures by the end of the succeeding month.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.202 Allocation of Title IV-E Prevention Service reimbursement funds. Funds received as reimbursement for Title IV-E Prevention Service Programs shall be allocated to the judicial districts in the same ratio as the expenditure of funds for prevention services within each district after the maintenance of effort requirement has been met.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.203 Availability of funds. The judicial branch shall monitor the availability of funds throughout the state fiscal year.

70.203(1) The state court administrator, the director of juvenile court services, and the chief juvenile court officers shall reallocate funds as needed to ensure the availability of services on a statewide basis throughout the state fiscal year.

70.203(2) If funding for early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered services are exhausted in any district, the respective services within that district shall be discontinued.

70.203(3) The chief juvenile court officer shall be responsible for communicating this information.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.204 Transfer of funds. Allocated funds may be transferred to a decategorization governance board or to other government agencies or departments.

70.204(1) The state court administrator and the director of juvenile court services will determine transfers for state-level projects.

70.204(2) Each chief juvenile court officer may transfer funds from the officer's own district allocation.

70.204(3) All transfers are dependent upon availability of funds.

70.204(4) Fund transfers will identify any specific usage, and reporting requirements, as well as any limitations related to the funds. The receiving entity must agree to the usage, and reporting requirements, as well as any spending limitations prior to acceptance of any funds transfer.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.205 Administration of juvenile court services programs within each judicial district. Each chief juvenile court officer is responsible for the administration of the early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered service

funds within the officer's judicial district. The chief juvenile court officer shall purchase services on behalf of eligible children within the officer's judicial district.

70.205(1) *Planning for service needs.*

- a. Each chief juvenile court officer shall develop a process for determining:
 - (1) The service needs of the children within the officer's district.
 - (2) The mix of services to be provided to best meet the identified needs within the district.
- b. Each chief juvenile court officer shall develop a draft juvenile justice service plan for the officer's judicial district that accounts for the expenditure of their annual allocation for the new state fiscal year.
 - (1) The draft annual plan must be submitted to the state court administrator by September 15 for the current state fiscal year.
 - (2) The state court administrator shall approve or recommend changes to each district's draft annual plan by September 30 for the current state fiscal year.
- c. The chief juvenile court officers, in conjunction with the director of juvenile court services, shall develop the juvenile justice service plan guidance and shall review and make adjustments to this guidance annually. At a minimum, this guidance shall address:
 - (1) Community safety.
 - (2) Matching service type and dosage to risk level.
 - (3) Recidivism.
 - (4) Evidence-based services.
 - (5) Promising practices.
 - (6) Racial and ethnic disparities.
 - (7) Reentry.
 - (8) Cross-over practices.
- d. The juvenile court services quality improvement staff shall evaluate and ensure the quality and effectiveness of the services being provided.
- e. The chief juvenile court officer shall make recommendations concerning changes that are needed to ensure that children and families receive the services necessary to meet the unique needs of the officer's judicial district.

70.205(2) *Eligible providers.*

- a. The chief juvenile court officer shall purchase services from public or private agencies, organizations, or eligible individuals.
- b. To be eligible to provide services, an organization or individual shall meet the following criteria:
 - (1) Submit a completed Form W-9; and
 - (2) Have a federal identification number; or
 - (3) Have a social security number for which the state accounting enterprise has determined that an employee-employer relationship with the state does not exist; or
 - (4) Be paid an amount during a state fiscal year that does not exceed \$1,000 plus allowable expenses such as meals, lodging, and mileage per state fiscal year as determined according to state accounting enterprise procedure 210.102.

70.205(3) *Allowable costs.*

- a. The administrative and program requirements of these rules include those costs specified below:
 - (1) Reimbursement for mileage, meals, and lodging expenses involved in the transportation of the child shall not exceed the lower of the rates set by the judicial branch or the provider's customary rate, unless the transportation is provided by a public officer or employee.
 - (2) A public officer or employee, other than a state officer or employee, is entitled to be reimbursed for expenses.
 - (3) Fees and expenses as specified in Iowa Code section 331.655 when the court order specifies that the public officer or employee shall provide transportation. The allowable expenses for which sheriffs may be reimbursed are found in Iowa Code section 70A.9.
 - (4) Expenses approved by the chief juvenile court officer when the court order does not specify that the public officer or employee shall provide transportation.
- b. A provider with a service contract for a similar service shall be reimbursed at the rate of the purchase of service contract. A provider that does not have a service contract shall be reimbursed at a rate comparable to the rate reimbursed to providers that have service contracts.
- c. Funds for early intervention and follow-up programs/graduated sanctions and noncontracted/court-ordered services shall not be used in lieu of private insurance.

70.205(4) *Contract development.* The chief juvenile court officer shall have the responsibility to initiate contracts for services. All service contracts must follow the Judicial Branch procurement policy.

a. Each chief juvenile court officer shall be responsible to develop contracts within the officer's judicial district with each provider selected through the process.

b. The chief juvenile court officer, the provider, and state court administration shall sign the contract.

c. The chief juvenile court officer or designee is responsible for distributing a copy of the signed contract, amendment, or renewal letter to the provider.

d. Contract amendments shall be prepared whenever there is a change in the amount of contracted dollars, contract duration, program description, or any other terms of the contract.

(1) Any party to the contract may request an amendment to the contract. The provider may request a contract amendment through the chief juvenile court officer.

(2) The chief juvenile court officer, the provider, and state court administration shall sign all contract amendments.

e. Prior to the contract being signed, the state accounting enterprise must determine that no employer-employee relationship with the state exists. A vendor must either:

(1) Have a valid, assigned state accounting enterprise number.

(2) Follow the steps to be assigned a state accounting enterprise control number as outlined in state accounting enterprise procedure 240.102.

70.205(5) *Contract content.*

a. Contracts for purchasing services shall be developed using contract forms approved as to legal form by state court administration.

b. The contract shall:

(1) Note the deliverables, performance measures, and payment methodology.

(2) Describe the process the provider shall follow to complete and submit claims for payment.

c. The contract shall not guarantee a specific amount of utilization.

d. A minimum and a maximum number of participants may be established.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.206 *Billing and payment.* The chief juvenile court officer shall ensure that billing and payment are in compliance with judicial branch requirements and the requirements of the accounting policies and procedures manual of the administrative services state accounting enterprise. A claim that meets the requirements of these rules becomes a state liability on the date of the claim's accrual. The date of a claim's accrual is the date the service was provided, the end of the agreed-upon billing interval specified in the contract, or the date of a determination of liability for the claim.

70.206(1) *Claim forms and instructions.* The instructions and forms used for billing shall be available to all providers electronically.

a. For claims for noncontracted/court-ordered services:

(1) The provider shall prepare a claim for noncontracted/court-ordered services on Form GAX, General Accounting Expenditure. An original, itemized invoice may accompany a Form GAX in lieu of a claimant's original signature.

(2) The provider shall ensure receipt of a referral from juvenile court services for all noncontracted/court-ordered services and the applicable court order prior to commencement of services as required. The provider shall submit the noncontracted/court-ordered service referral, as applicable, and court order, as applicable, with the GAX form, and/or itemized invoice for payment.

b. For claims for contracted services:

(1) The provider shall prepare a claim for contracted services on Form GAX, General Accounting Expenditure. An original, itemized invoice may accompany a Form GAX in lieu of a claimant's original signature.

(2) The provider shall ensure receipt of a referral from juvenile court services for all contracted services, as applicable. The provider shall also submit the referral along with an approved invoice and a copy of the provider's list of the eligible children for whom the claim is made. The document submitted shall include the name of each child and the number of units of service provided to that child each month, as required by the individual contract.

70.206(2) *Preparation of a claim.* The Form GAX, General Accounting Expenditure, with an original claimant signature or an original, itemized invoice, shall be submitted with all claims.

a. The Form GAX submitted shall not include claims for more than one state fiscal year.

b. The provider, as vendor, must enter on the Form GAX:

- (1) The vendor code.
- (2) The vendor's name and mailing address.
- (3) The vendor's service month(s).
- (4) A short description of the item or service that was purchased.
- (5) A claimant original signature of the provider unless an original invoice is submitted.

70.206(3) *Support of a claim.*

a. The provider bears ultimate responsibility for the completeness and accuracy of each claim submitted.

b. The provider must maintain a record of the dates and times during which each service was provided for each eligible child.

c. The provider's record must correspond to the units billed, as applicable.

70.206(4) *Submittal of claims to juvenile court services.*

a. Providers shall submit claims to the contract administrator responsible for each contract. The provider shall submit the original Form GAX or original invoice and any required documented support of the claim.

(1) Claims shall be submitted timely to allow the contract administrator to submit the claim for payment within 90 calendar days of the date of the claim's accrual.

(2) To ensure payment from funds appropriated for the state fiscal year, claims shall be submitted timely to allow the contract administrator to submit the claim for payment within 45 calendar days of state fiscal year end, June 30.

70.206(5) *Review and approval of claims.*

a. The chief juvenile court officer is responsible for accuracy and disposition of claims. The contract administrator shall verify the accuracy of the provider's billings and submit the claims to the chief juvenile court officer for review and approval.

(1) Juvenile court services staff may complete the Form GAX when the provider submits an original invoice or may enter any required missing information to the Form GAX.

(2) To approve the claim, the chief juvenile court officer or designee shall sign the Form GAX in the space titled "order approved by." The signature shall be deemed as certification that the billed expenses were incurred, amounts are correct, and payment should be made.

70.206(6) *Claim records.* The chief juvenile court officer or approved administrator shall have the responsibility for retention of records, maintenance of records, and authorized access to records. Electronic record retention is acceptable.

a. Juvenile court services shall retain one copy of the claim and supporting documentation as submitted for payment as well as any additional required supporting documentation submitted to juvenile court services by the provider. The copy of the Form GAX and supporting documentation, as well as any additional required supporting documentation submitted to juvenile court services by the provider, are subject to audit.

b. During the required retention period, all records and knowledgeable personnel must be accessible and available for the review or audit. All documents related to each other must be appropriately attached and organized in a manner that provides easy access.

70.206(7) *Claim payment.*

a. The judicial branch shall reimburse providers for costs when claims are submitted according to the required procedures.

b. The judicial branch shall process a claim through the state appeal board's processes for approving outdated invoices when the judicial branch receives the claim after August 31 for the previous state fiscal year.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.207 Record keeping. The provider and juvenile court services shall maintain financial and service records for a period of seven years following termination of services. The records are subject to review and/or audit.

70.207(1) *Record keeping requirements.*

a. Each provider shall maintain all the financial and service records used to submit or substantiate claims for reimbursement, including court orders as required and lists of the children served. The provider bears the ultimate responsibility for the completeness and accuracy of the claim submitted as set forth in these rules.

b. Each provider shall maintain all the corresponding service and financial information necessary to document the provision of the service as agreed upon in the contract. Each provider shall maintain a case file that documents the provision of the contracted service for each individual child for whom a claim is made.

c. Each juvenile court officer shall maintain within the case file all referrals for both noncontracted/court-ordered and contracted services as required. Each juvenile court officer shall ensure provider updates are recorded within the case file. Each juvenile court officer shall ensure the case file includes all the corresponding service information necessary to document that the contracted service was provided.

d. Each chief juvenile court officer shall ensure that a court order supports the payment of any claim paid for noncontracted/court-ordered services as required by these rules.

e. Each chief juvenile court officer shall ensure that the district is accountable for payments, receipts, and retention of records as established by these rules.

70.207(2) Access to records. Each provider of these services shall make available upon request to juvenile court services, the department of inspections and appeals, or the office of the auditor of state the service and financial records used to support or substantiate claims for reimbursement, including court orders and lists of children served. The records shall be subject to review and audit by juvenile court services, the department of inspections and appeals, or the office of the auditor of state.
[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.208 Annual contract compliance review.

70.208(1) General requirements.

a. The contract administrators shall complete annual contract compliance reviews of all service contracts which meet the minimum thresholds to ensure contractual and fiscal requirements are met.

b. The contract administrator who oversees each contract shall not conduct the annual contract compliance review on any contracts administrated.

70.208(2) Schedule. The contract administrator shall notify each chief juvenile court officer of the contracts which meet the threshold at which a review must be conducted. The contract administrators shall coordinate to determine the list of providers which require a review for those services shared across multiple districts.

a. Annual contract compliance reviews are required for any provider having one or more contracts with one or more judicial districts when the total annual value of all contracts is \$100,000 or more.

b. Annual contract compliance reviews are required for each new provider who has not previously contracted with the judicial district during the first year of the provider's contract with the district when the total annual value of the provider's contracts with the judicial district is \$50,000 or more.

c. Additional contract compliance reviews are optional but may be required or requested by state court administration or the chief juvenile court officer for the providers, other than those described in subrules 70.208(1)-(2), based on factors such as:

- (1) Length of time the provider has been in business.
- (2) Amount of time the provider has offered the services being purchased.
- (3) Type of service or program being purchased.
- (4) Amount of money involved in the contract.
- (5) Whether other governmental entities contract with the provider.
- (6) Findings from previous contract compliance review by the district or other entities such as the office of the auditor of state.

70.208(3) Location. A virtual contract compliance review meets the annual contract compliance review requirements so long as client records are available to be securely reviewed. Alternately, on-site reviews may take place at the sites where the program is operated if deemed necessary by the contract administrator, the chief juvenile court officer, or state court administration.

70.208(4) Scope.

a. The contract compliance review shall include review of the provider's service and financial records, including the client case files, to ensure that the records contain the required documentation of the provision of the contracted service.

b. At a minimum, the reviews shall include:

- (1) Documentation of direct contact with the client.
- (2) Review of referral for service, service billings, payments, and documentation of delivery of service.
- (3) Documentation that the provider meets contract requirements.

(4) Solicitation and incorporation of input from juvenile court officers referring to service contracts to determine if needs are being met.

70.208(5) *Repayment.* The judicial branch may seek repayment of claims paid for noncovered services or for services for which documentation is not established.

a. The chief juvenile court officer shall notify the provider in writing that a repayment is due. The written notice shall identify:

- (1) The claims.
- (2) The amounts of the claims that are not documented or substantiated.
- (3) The amount of the repayment requested.

b. The provider shall repay the judicial branch the difference between the amount received and the amount established through the review, not to exceed the amount paid by the state, when:

(1) The provider, upon review, fails to verify or document the provision of covered services or costs in the amount for which a claim was paid or when the review confirms claims paid for noncovered services.

(2) Juvenile court services or the judicial branch makes a request for repayment.

c. If the provider does not make payment within 60 days, the chief juvenile court officer shall submit to state court administration a copy of the notice to the provider for state court administration's review and further action, if necessary.

70.208(6) *Reporting.* Each contract administrator shall submit the standardized annual contract compliance review form for each contract the administrator has reviewed to the chief juvenile court officer for the district of the assigned contract and to state court administration.

a. The annual reports shall be submitted by December 31 following the end of the state fiscal year. This date may be extended upon the written request of the chief juvenile court officer to state court administration.

b. The annual report shall include a summary of the findings of the reviews conducted during the state fiscal year.

70.208(7) *Formal audit by the office of the auditor of state.* All judicial branch employees must report any suspected fraud to state court administration immediately. The state court administrator or the judicial branch director of finance may request a formal audit by the office of the auditor of state. [Court Order December 2, 2022, effective July 1, 2023]

Rules 70.209 to 70.300 Reserved.

DIVISION III NONCONTRACTED/COURT-ORDERED SERVICES

Rule 70.301 Juvenile court services responsibilities. The chief juvenile court officer shall purchase noncontracted/court-ordered services for eligible children.

70.301(1) The chief juvenile court officer shall ensure the services fall within the defined allowable services and that there are sufficient funds in the district's allocation to pay for all noncontracted/court-ordered services.

70.301(2) Any services that are provided without the signed approval of the chief juvenile court officer or approved administrator may be denied payment unless there is an emergency or after-hours situation and no other provision exists for handling the emergency or after-hours situation or transport.

70.301(3) A district or juvenile court shall not order any service that is a charge upon the state pursuant to Iowa Code section 232.141 if there are insufficient noncontracted/court-ordered services funds available in the district allocation to pay for the service.

70.301(4) The chief juvenile court officer shall encourage responsible use of noncontracted/court-ordered service funds such that there are sufficient funds during the entire year to pay for all noncontracted/court-ordered services.

a. The chief juvenile court officer shall establish service priorities for spending the noncontracted/court-ordered services funds allocated to the district.

b. The chief juvenile court officer shall inform state court administration of potential shortfalls in the district's allocation and shall request a transfer of funds between the districts as prudent.

70.301(5) The chief juvenile court officer shall notify the state court administrator and the chief judge of the district in the event that the noncontracted/court-ordered services funds for the judicial district are exhausted.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.302 Noncontracted/court-ordered service application process. The chief juvenile court officer or approved administrator shall determine the need for each service.

70.302(1) Any party intending to request noncontracted/court-ordered service funds shall complete an application and receive approval for the funding request from the chief juvenile court officer or approved administrator, with the exception of drug testing, drug testing supplies, court-ordered transportation, and global positioning system monitors.

70.302(2) If an application for noncontracted/court-ordered services and/or a court order is not available, a consent decree, a global positioning system monitoring agreement, a condition of supervision agreement, or an informal or formal probation agreement must be contained within the case file.

70.302(3) The application form with instructions shall be available upon request from the office of each chief juvenile court officer.

70.302(4) The chief juvenile court officer or approved administrator shall approve or disapprove the request for funds and shall sign and return the application to the referring juvenile court officer.

a. If the request is disapproved, the decision is final.

b. If the request is approved, the service plan may be presented to the court for a court order to be issued for the services.

70.302(5) The applicant shall have verified that there are no other alternative funding sources for the service.

70.302(6) The chief juvenile court officer or approved administrator may establish procedures for handling emergency or after-hours situations and for the handling of transports.

70.302(7) *Use of other funding sources.*

a. The chief juvenile court officers shall ensure that the funds allocated for noncontracted/court-ordered services are spent only after all other reasonable actions have been taken to use other funding sources.

b. Services are not eligible for reimbursement when another payment source is available.

c. Medical cost sharing for the one-time payment per court order of a deductible amount or a coinsurance amount for treatment specified in a court order is an allowable expense that may be paid through the noncontracted/court-ordered services fund when insurance or Medicaid is then available to pay the remainder of the cost.

d. The date of a medical claim's accrual for reimbursement through noncontracted/court-ordered services is the date the claim becomes a state liability. For example, a claim becomes a state liability on:

(1) The date of a court order for a contested claim; or

(2) The date of a determination by Medicaid or private insurance that Medicaid or private insurance denies partial or full payment for care and treatment for which an application has been approved.

70.302(8) *Allowable rates.* The chief juvenile court officer or approved administrator shall negotiate a reimbursement rate with the provider to obtain the service at a reasonable cost based on available community or statewide rates.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.303 Expenses. The following lists include expenses that are either eligible or ineligible for reimbursement from the noncontracted/court-ordered services fund and are intended to be exhaustive. Billings for services not listed below shall not be paid except as provided in subrule 70.303(3).

70.303(1) *Reimbursable expenses.* The expenses for which reimbursement shall be made include:

a. Transportation expenses, including those incurred in transporting a child to or from a place designated by the court, including mileage, lodging, and meals.

b. Medical cost sharing for payment of deductibles or coinsurance when Medicaid or private insurance is then available to pay the remainder of the cost.

c. The expense of care or treatment ordered by the court whenever the child is placed by the court with someone other than the parents or whenever the child is given a physical or mental examination or treatment under order of the court, including treatment referenced under a consent decree. Care and treatment expenses for which no other provision for payment is made by law that shall be reimbursable include:

(1) Individual services for the child separate from a family's treatment plan.

(2) Diagnosis and evaluation on an outpatient basis unless the diagnosis and evaluation are provided by a person or agency with a contract with the judicial branch for that service for which the child is eligible.

(3) An evaluation of a child in a residential facility.

(4) Inpatient (hospital) evaluation of a child previous to disposition.

(5) Medical treatment for a child when the medical treatment is court-ordered, except when the child is in a detention facility.

(6) Drug treatment, testing, testing supplies, and care for a child.

(7) In-home supervision and monitoring, including global positioning system monitoring, and alternatives to shelter care unless a person or agency has a contract with the judicial branch to provide the service for which the child is eligible.

(8) One-to-one supervision of a child not in a detention facility unless the service is provided by a person or agency with a contract with the judicial branch for that service for which the child is eligible.

(9) Physical or mental examinations ordered pursuant to Iowa Code section 232.49, except those set forth in paragraph 70.303(2)(b) or those eligible for payment pursuant to Iowa Code chapter 249A.

d. Expenses for educational testing or programs related to a high school equivalency test (HiSET) or equivalent or for credit hours when the expenses are not required to be paid by the state.

e. Expenses for a child meant to serve as a diversionary tool for children at risk of further involvement with the juvenile justice system, which may include:

(1) Drug treatment, testing, testing supplies, and care for a child.

(2) Educational programming used as a deterrent for at-risk and delinquent children, unless the service is provided by a person or agency with a contract with the judicial branch for that service for which the child is eligible.

(3) In-home supervision and monitoring, including global positioning system monitoring, and alternatives to shelter care, unless a person or agency has a contract with the judicial branch to provide the service for which the child is eligible.

70.303(2) Expenses not eligible for reimbursement. Expenses that are excluded from reimbursement from noncontracted/court-ordered service funds because another source is available to pay for the service include:

a. Foster care and shelter care. *See* Iowa Code section 234.35.

b. All charges for which the county is obligated by statute to pay including:

(1) Care and treatment of patients by any state mental health institute. *See* Iowa Code section 230.20(5).

(2) Care and treatment of patients by either of the state resource centers or by any other facility established under Iowa Code chapter 222. *See* Iowa Code section 222.60.

(3) Care and treatment of patients by the psychiatric hospital in Iowa City. *See* Iowa Code ch. 225.

(4) Care and treatment of persons at the alcoholic treatment center in Oakdale or any other facility as provided in Iowa Code chapter 125. *See* Iowa Code section 125.44.

(5) Clothing and medical or other service provided to persons at the Iowa Braille and Sight Saving School, the Iowa School for the Deaf, or the University of Iowa Stead Family Children's Hospital for which the county becomes obligated to pay pursuant to Iowa Code sections 263.12, 269.2, and 270.4.

(6) Expenses for detention in a facility used for detention. *See* Iowa Code section 232.142.

(7) Care and treatment of persons placed in a county hospital, county care facility, a health care facility as defined in Iowa Code section 135C.1(8), or any other public or private facility in lieu of admission or commitment to a state mental health institute, state resource center, or other facility established pursuant to Iowa Code chapter 222. *See* Iowa Code section 222.50.

(8) Child abuse photos and X rays. *See* Iowa Code section 232.77.

(9) Any expenses set forth in Iowa Administrative Code subrule 441—151.22(1) that qualify for payment pursuant to Iowa Code chapter 249A.

(10) Expense of a child sexual abuse examination. *See* Iowa Code section 915.41.

(11) Expense of child daycare. *See* Iowa Code section 234.6.

(12) Expense of in-home treatment services. *See* Iowa Admin. Code chs. 441—78-79, 83.

(13) Expense of homemaker-home health aide services. *See* Iowa Admin. Code ch. 641—80.

(14) Expenses for all educational testing or programming required to be paid by the state, except for children who attend an on-campus school in an out-of-state facility and who are not weighted as special education students. *See* Iowa Code ch. 256.

(15) Expenses, except for the allowable medical cost sharing, for all court-ordered counseling and treatment for adults, including individual, marital, mental health, substance abuse, and group therapy. Payment source is private insurance, Medicare, Medicaid, or other resources consistent with Medicaid and social services eligibility and Iowa Code chapter 249A.

(16) Expenses, except for the allowable medical cost sharing, for psychiatric medical institutions for children (PMIC). Payment source is private insurance, Medicare, Medicaid, or other resources consistent with Medicaid and social services eligibility and Iowa Code chapter 249A.

70.303(3) *Services not listed.* If a court orders a service not currently listed in subrule 70.303(1), the chief juvenile court officer or approved administrator shall review the order and shall consult with state court administration. If reimbursement for the service expense is not in conflict with current law and meets the criteria for payment by noncontracted/court-ordered service funding, the chief juvenile court officer or approved administrator shall authorize reimbursement to the provider.

70.303(4) *Appeals.* If services are court-ordered, children who have been adversely affected by decisions made by the juvenile court and their parents or guardians may appeal through procedures established pursuant to Iowa Code section 232.133.

[Court Order December 2, 2022, effective July 1, 2023]

Rules 70.304 to 70.400 Reserved.

DIVISION IV

EARLY INTERVENTION AND FOLLOW-UP PROGRAMS/GRADUATED SANCTIONS SERVICES

Rule 70.401 *Service eligibility.* Children shall be eligible for services without regard to individual or family income when they are adjudicated delinquent or a juvenile court officer or other approved referral entity determines they are at risk and in need of contracted services.

70.401(1) Juvenile court services shall maintain in the child's case file documentation of the child's adjudication or at-risk status as well as the child's need for services, as applicable.

70.401(2) The chief juvenile court officer shall establish written procedures for screening and approving referrals for services and make the procedures available to the district's juvenile court officers and other approved referral entities.

70.401(3) The juvenile court officer shall determine the child to be in need of services as evidenced by one or more of the following situations:

a. Schools, parents, or community organizations, due to complaints of delinquent activities or activities that put a child at risk of involvement in the juvenile justice system, indicate the need for intervention and guidance of the child.

b. A petition has been filed alleging delinquent behavior.

c. Juvenile court services action has been initiated including, but not limited to, diversion, informal adjustment agreements, and adjudication and disposition proceedings, including consent decrees.

70.401(4) The chief juvenile court officer may approve services for up to six consecutive months at a time, except that service approval shall not extend beyond the current state fiscal year unless a contract is in effect to assume the cost for the services provided in the next state fiscal year. The referring officer shall reevaluate the child's eligibility and need for these services in accordance with procedures established by the respective juvenile court services district.

70.401(5) Referrals shall not be made or accepted when funds for the program are not available; the chief juvenile court officer shall inform referring entities when program funds are no longer available.

70.401(6) Each chief juvenile court officer may approve follow-up services for a child adjudicated to have committed a delinquent act upon the child reaching 18 years of age until the child is 21 years of age, as indicated in Iowa Code section 232.8(5)(a).

70.401(7) *Service components.*

a. Services may include, but are not limited to, the following components:

(1) Cognitive-behavioral therapy.

(2) Group counseling.

(3) Mentoring.

(4) Behavioral contracting or contingency management.

- (5) Family counseling, including child and parent relationships and parenting skills.
- (6) Family crisis counseling.
- (7) Mixed counseling.
- (8) Social skills training.
- (9) Challenge programs.
- (10) Mediation.
- (11) Restitution or community service.
- (12) Remedial academic program.
- (13) Individual counseling.
- (14) Job-related training, including job-seeking skills, as well as training for specific jobs and on-the-job training experiences.
- (15) Personal skills, including anger management, stress reduction, and self-esteem.
- (16) Problem solving.
- (17) Accountability and acceptance of responsibility.
- (18) Victim empathy and self-advocacy.
- (19) Activities of daily living and time management.
- (20) School attendance and truancy issues.
- (21) Violence prevention.

b. The contract must specify what is required of the provider, including transportation services, as needed.

c. Services may be co-located with school programs. Although the costs of the state-funded educational programming shall not be funded through the early intervention and follow-up programs/graduated sanctions appropriation, programs shall be developed so that there is close coordination between the treatment and the state-funded educational components.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.402 Reporting requirements.

70.402(1) Providers of services shall submit all reports on each child receiving services to the assigned juvenile court officer, or other juvenile court services staff, at intervals specified in the contract. All required reports may be electronic, including, but not limited to, treatment plans, case updates, and progress reports, and shall include all required components specified in the contract.

70.402(2) The juvenile court officer shall file provider reports in the child's electronic case file.

70.402(3) Additional reports may be required when requested by the juvenile court judge or the child's juvenile court officer.

70.402(4) Any school-based program shall have established procedures for communication and for maintaining records on individual children receiving assistance. The procedure shall include methods for the timely communication of critical information to juvenile court services and school officials, assurances that child abuse allegations shall be reported promptly in accordance with applicable Iowa statutes, and systems to safeguard the confidentiality of the child's records.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.403 Contracted services referral process.

70.403(1) *Referral requirements.* The juvenile court officer or other approved referral source shall:

- a. Determine which service provider can best meet the child's needs.
- b. Complete the referral form, as applicable, and follow the district's referral approval process.
- c. Assist in the child's transition to receive the service.
- d. Follow up after the service has been provided.

70.403(2) *Monitoring of service delivery.* The juvenile court officer, or other approved referral source, shall monitor the delivery of services to children for whom the referral was made.

a. The juvenile court officer, or other approved referral source, shall review provider progress reports and maintain contact with the child, the child's family, the provider, and other community agencies to adequately assess the child's progress and need for service.

b. The referring juvenile court officer, the provider, the child, or the child's representatives may report problems in service delivery to the chief juvenile court officer or designee.

70.403(3) *Payment methodology.* Rates for services shall be established through a service contract between the provider and the chief juvenile court officer based on the provider's proposed

budget. Rates may vary among providers for various types of services. The payment methodology and contract maximum shall be specified in the contract.

70.403(4) *Provider standards.* Providers shall have a contract with juvenile court services for services and agree to abide by all contract requirements, including, but not limited to, reporting, payment methodology, record retention, and billing and payment procedures. Providers of these services shall meet all of the following conditions:

a. Be selected and approved by the chief juvenile court officer or designee within each judicial district to provide the contracted services.

b. Use staff who, in the opinion of the chief juvenile court officer, have the necessary training and qualifications to provide quality services.

c. Make any changes to curriculum as requested by the chief juvenile court officer or designee.

d. Provide services to eligible children in the settings most suited to each child's needs.

70.403(5) *Performance and outcome measures.*

a. Each contract shall detail expected performance measures for the services provided.

b. Each contract shall detail expected outcomes of the service requirements for each child.

c. The provider shall report data as required in the service contract.

d. Juvenile court services shall determine preservice and postservice measures needed to track and record outcomes.

[Court Order December 2, 2022, effective July 1, 2023]

Rule 70.404 Supportive enhancements. A funding application or referral for services or goods shall be completed by the referring juvenile court officer and include language to indicate how the services or goods reduce the risk factors of the eligible child. See monitoring of service delivery, provider standards, and outcome measures in subrules 70.403(2), (4), and (5).

70.404(1) *Types of supportive enhancements.* Supportive enhancements are individualized to address the child's needs, including:

a. Living environment.

b. Accountability.

c. Basic needs.

d. Safety.

e. Social needs.

f. Educational needs.

g. Cultural needs.

70.404(2) *Service eligibility.* The eligible child shall be qualified for supportive enhancements without regard to individual or family income when the child is adjudicated delinquent or is determined by a juvenile court officer, or other approved referral entity, to be at risk and to be in need of the services or goods.

a. Juvenile court services shall maintain in the child's case file documentation, including the funding application or referral for services or goods, including language to indicate how the services or goods shall reduce the risk factors of the child, as well as the child's adjudication or at-risk status.

b. The chief juvenile court officer shall establish written procedures for screening and approving funding applications or referrals for supportive enhancements and make the procedures available to the district's juvenile court officers or other approved referring entities.

c. The chief juvenile court officer may approve supportive enhancements for up to six consecutive months at a time, except that service approval shall not extend beyond the current state fiscal year unless a contract is in effect to assume the cost for the services provided in the next state fiscal year. The referring officer shall reauthorize the child's eligibility and need for these services in accordance with the procedures established by the respective juvenile court services district.

d. Referrals shall not be made or accepted when funds for the program are not available; the chief juvenile court officer shall inform referring entities when program funds are no longer available.

70.404(3) *Service components.* Supportive enhancements are to complement other services or interventions for a child served by the juvenile court services or other provider. These supports allow juvenile court services to intervene immediately with a support or incentive that is expected to reduce misbehavior or truancy and will lead to improved outcomes.

a. Alternative funds or services shall be utilized prior to supportive enhancements, when available.

b. Supportive enhancements may include, but are not limited to:

(1) Education-related services.

(2) Restitution.

- (3) Crisis intervention.
- (4) Transportation.
- (5) Clothing and grooming supplies.
- (6) Enrollment for prosocial activities.
- (7) Other expenses as approved by the chief juvenile court officer.

70.404(4) *Application process.* An application for supportive enhancements is required and must state all of the following:

- a. Purpose of the purchase.
- b. Benefit to the child.
- c. Intent to reduce criminogenic risk factors.
- d. A statement that there is no other funding source available for these goods or services.
- e. Verification that the child meets eligibility requirements defined in these rules.

70.404(5) *Program requirements.*

a. For purchases valued over \$10, the chief juvenile court officer or designee must approve an application prior to purchase of the goods or services.

b. For purchases valued \$10 or under, it is strongly encouraged to have the application approved prior to receipt of the goods or services by the child. It is allowable to have only verbal or written approval by a supervisor and obtain formal approval of the application after the child receives the goods or services in certain situations.

c. All gift cards must be tracked using a tracking number and linked to the child receiving the card.

d. Recipient signoff is required and may consist of an email, letter, note, or other document signed by the child or the child's guardian confirming receipt of the goods or services.

e. The hourly reimbursement rate for community service restitution is set by the chief juvenile court officers and reviewed annually.

f. A maximum annual cap for restitution for any one child is set by the chief juvenile court officers and reviewed annually. The referring juvenile court officer must request an exception to this policy for each child, as applicable.

70.404(6) *Rate setting.* Rates for supportive enhancements shall be established through a contract between the provider and the chief juvenile court officer. Rates may vary.

[Court Order December 2, 2022, effective July 1, 2023]

These rules are intended to implement Iowa Code section 232.192.